

## General Synod 2007 Legislation

(A report from the Standing Committee.)

*In view of the Synod's request in resolution 22/08 to consider distributing material electronically to minimise cost and wastage, this report has been printed in a form which does not reproduce copies of the relevant canons as annexures (which would comprise about 75 printed pages). The canons are reproduced as annexures to the version of the report published on the Secretariat's website [www.sds.asn.au](http://www.sds.asn.au) under "For Synod & Standing Committee" then "Synod this Year".*

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### Introduction

1. Under the constitution ("Constitution") of the Anglican Church of Australia (set out in the Schedule to the Anglican Church of Australia Constitution Act 1961 - see [www.sds.asn.au](http://www.sds.asn.au) under "For Synod & Standing Committee" then "Acts & Ordinances"), the General Synod has power to make canons for the order and good government of the Church. The General Synod also has power, by canon, to amend the Constitution.

2. Not all canons come into effect when they are passed. For example, where a canon affects the order and good government of the

Church in a diocese then, under the Constitution, the canon does not come into effect in that diocese unless the diocese, by ordinance of its synod, *adopts* the canon. Further, a canon to amend the Constitution only comes into effect if the requisite number of dioceses *assent* to the canon. In the case of certain provisions of the Constitution the canon only comes into effect if it receives *assent* from all dioceses.

3. Where a proposed canon affects the ritual, ceremonial or discipline of the Church the usual procedure is that the canon is only passed provisionally. It then becomes known as a provisional canon. Under the Constitution, a provisional canon is referred to each diocesan synod for *assent* or *dissent*. If all dioceses *assent* to the provisional canon then it becomes a canon. If a diocese *dissents*, the provisional canon must be reconsidered at a future session of General Synod. If at that future session the provisional canon is passed by a 2/3 majority of the members of each house of General Synod, it becomes a canon. If passed, but not by a 2/3 majority, it is again referred to diocesan synods for assent or dissent. In any event if the provisional canon becomes a canon, the canon does not have effect in a diocese until the diocese by ordinance *adopts* that canon.

#### **Canons passed by the General Synod in 2007**

4. In 2007 the General Synod passed the following canons –
- Amendment to Strategic Issues, Commissions, Taskforces and Networks Amendment Canon 2007*
  - Australian College of Theology Canon 2007*
  - Canon Concerning Holy Orders 2004*
  - Constitution Alteration (Chapter IX) Canon Amendment Canon 2007*
  - Constitution Amendment (Diocesan Council) Canon 2007*
  - Constitution Amendment (Provinces and Dioceses) Canon 2007*
  - Constitution Amendment (Section 10) Canon 2007*
  - Constitution Amendment (Section 54A) Canon 2007*
  - Constitution Amendment (Suspension of Bishops) Canon 2007*
  - Episcopal Standards Canon 2007*
  - Financial Protection Canon Amendment Canon 2007*
  - Holy Orders (Reception into Ministry) Canon 2004*
  - Long Service Leave Canon 2007*
  - National Register Canon 2007*
  - Offences Canon Amendment Canon 2007*
  - Primate Canon Amendment Canon 2007*
  - Protection of the Environment Canon 2007*
  - Special Tribunal Canon 2007*
  - Special Tribunal Canon Repeal Canon 2007*

5. The General Synod also passed *The Solemnization of Matrimony Canon Amendment Canon 2007* as a provisional canon.

#### **Canons in force**

6. There are a number of canons which have taken effect because they do not affect the order and good government of the Church in a diocese. These canons are –

*Amendment to Strategic Issues, Commissions, Taskforces and Networks Canon Amendment Canon 2007*  
*Australian College of Theology Canon 2007*  
*Financial Protection Canon Amendment Canon 2007*  
*Primate Canon Amendment Canon 2007*

#### **Canons for adoption by our Synod**

7. Each of the following canons contain declarations that they affect the order and good government of the Church in a diocese and must be adopted by our Synod before they have effect in our Diocese –

*Canon Concerning Holy Orders 2004*  
*Episcopal Standard Canon 2007*  
*Holy Orders (Reception into Ministry) Canon 2004*  
*Long Service Leave Canon 2007*  
*Protection of the Environment Canon 2007*

8. It is considered that each of the following canons also affect the order and good government of the Church in a diocese and therefore also need to be adopted by our Synod in order to have effect in our Diocese –

*National Register Canon 2007*  
*Offences Canon Amendment Canon 2007*  
*Special Tribunal Canon 2007*  
*Special Tribunal Repeal Canon 2007*

#### **Canon Concerning Holy Orders 2004**

9. The *Canon Concerning Holy Orders 2004* replaces the canons of 1603 dealing with ordained ministry, as well as putting in place minimum requirements for the ordination of a person as a deacon or priest and the consecration of a person as a bishop.

10. The Standing Committee considers the provisions of the canon are generally useful although section 5(1)(b) which requires a person to be confirmed in the Anglican Church before being ordained deacon introduces a new and inappropriate threshold for ordination.

11. The Standing Committee will bring recommendations about the Canon in due course.

***Episcopal Standards Canon 2007***

12. The *Episcopal Standards Canon 2007* sets up a procedure for dealing with matters of sexual abuse and any matters of alleged misconduct or omission of a member of the House of Bishops.

13. A copy of this Canon is set out in Annexure 1 of this report.

14. The Standing Committee acknowledges the need for a regime to deal with professional standards matters relating to bishops who are subject to the jurisdiction of the Special Tribunal. However the Standing Committee does not consider it is desirable, at least as far as our Diocese is concerned, for this matter to be dealt with under legislation of the General Synod. The Standing Committee considers that a diocesan approach would be preferable. Accordingly the Standing Committee recommends that our Synod not adopt this Canon.

***Holy Orders (Reception into Ministry) Canon 2004***

15. The purpose of the *Holy Orders (Reception into Ministry) Canon 2004* is to make provision for the reception into the ministry of the Anglican Church of Australia of persons ordained by bishops in the historic episcopate but of Churches not in communion with this Church.

16. A copy of this Canon is set out in Annexure 2 of this report.

17. The Standing Committee considers that there may be Churches that are not in communion with this Church that we wish to recognise other than under the restricted structure proposed by the Canon. The Standing Committee is of the view that this should be dealt with at the diocesan level. Accordingly the Standing Committee recommends that our Synod not adopt this Canon.

***Long Service Leave Canon 2007***

18. The primary purpose of the *Long Service Leave Canon 2007* and accompanying Schedule is to allow amendments to be made to the Long Service Leave regime between meetings of the General Synod by the utilisation of a Schedule to the Canon. Amendments to the 1995 Canon can take up to five years as General Synod meets every three years and agreement of all 23 dioceses can take a further two years.

19. Further, the Canon provides for a change in entitlement with effect from the adoption of the Canon for the amount of long service leave from ten weeks for ten years' service to thirteen weeks for ten years' service. This is to ensure a national approach which reduces potential exposure of a participating organisation to proceedings for breaches of a statutory regime.

20. A copy of this Canon is set out in Annexure 3 of this report.

21. The Standing Committee is aware that presently the Fund is operating at a considerable surplus and is concerned that section 48 of the Canon allows the Fund to be applied by the General Synod Standing Committee as it sees fit in the event that it is ever wound up. The Standing Committee has suggested instead that the net assets of the Fund should be apportioned among the participating dioceses in accordance with their General Synod membership, or their membership of the Fund (or some other appropriate manner determined by an Actuary) with each portion given or transferred to one or more Eligible Charities nominated by the diocesan council of the relevant diocese.

22. The Long Service Leave Board has agreed in principle to the Standing Committee's suggestion and has drafted amendments to the winding up provisions of the Canon with a view to these being considered by the General Synod in 2010. It is also understood that the Board intends to reduce the surplus by increasing benefits paid and lowering the rates of contribution.

23. Accordingly the Standing Committee recommends that our Synod not assent to the Canon. The Standing Committee has also recommended to our diocesan representatives on General Synod that they support the repeal of the Long Service Leave Canon 2007 and the re-enactment of the Canon in a form which includes the amended form of winding up provisions.

***Protection of the Environment Canon 2007***

24. The *Protection of the Environment Canon 2007* seeks to establish mechanisms by which the Church may respond to the threat of climate change. The Canon commits the Church to reducing its environmental footprint. The Canon requires each diocese to establish processes and procedures that are necessary to achieve this commitment. Each diocese is also required to report to General Synod in relation to its commitment.

25. A copy of this Canon is set out in Annexure 4 of this report.

26. The Standing Committee commends the sentiment behind the Canon but notes that our Synod has already passed resolutions 17/07 and 17/08 about climate change. Consistent with the terms of these resolutions, the Property Trust has undertaken environmental audits in a pilot group of parishes and developed an Environmental Assessment Report which express principles of good environmental stewardship and care.

27. In view of the work already being undertaken in this Diocese in relation to the environment, the Standing Committee recommends that our Synod not adopt this Canon and that the following motion be moved at our request at Synod –

"Synod requests that a report be provided to its next session about the environmental initiatives being undertaken in the Diocese."

***National Register Canon 2007***

28. Last year the Synod declared its opinion that the *National Register Canon 2007* affects the order and good government of the Church in this Diocese and, subject to this declaration, adopted the Canon. The Standing Committee also declared its opinion that the *National Register Canon 2007* affects the order and good government of the Church in this Diocese.

29. The General Synod Standing Committee will consider in due course whether it agrees with the declared opinion concerning order and good government.

***Offences Canon Amendment Canon 2007***

30. The *Offences Canon Amendment Canon 2007* rectifies an oversight in a 2003 amendment to section 56 of the 1961 Constitution to extend the jurisdiction of the Special Tribunal to include any bishop assistant to the Primate in his capacity as Primate. The Canon will extend offences to a bishop assistant to the Primate thereby covering the Bishop to the Defence Forces.

31. The Standing Committee has declared its opinion that the Canon affects the order of good government of the Church in the Diocese of Sydney and accordingly the General Synod Standing Committee will consider in due course whether it agrees with this opinion. The Standing Committee recommends that our Synod also declare this opinion and, subject to the declaration, adopt the Canon by ordinance.

32. A bill for the General Synod – Offences Canon Amendment Canon 2007 Adopting Ordinance 2009 and an explanatory statement for the bill are printed separately.

***Special Tribunal Canon 2007***

***Special Tribunal Repeal Canon 2007***

33. The *Special Tribunal Canon 2007* makes provision for the handling of complaints against bishops and for the operation of the Special Tribunal.

34. The Canon establishes the Episcopal Standards Commission (ESC) which has certain functions concerning the receipt, investigation and prosecution of complaints.

35. A copy of this Canon is set out in Annexure 5 of this report.

36. A former version of the Canon, the *Special Tribunal Canon 2004* was found by the Appellate Tribunal to affect the order and good government of the Church in a diocese because it provided that only

the ESC had standing to prosecute matters before the Special Tribunal. The *Special Tribunal Canon 2007* provides that a charge may be brought by the ESC, another Bishop, or in respect of a Bishop holding office or a licence in a diocese, in accordance with the provisions of an ordinance of the synod of that diocese. The synod of a diocese may declare by ordinance under section 43(2) of the Canon that the ESC may not bring a charge against the bishop of the diocese.

37. The Canon should be read in conjunction with the now amended sections 56, 60, 61 and 61A of the Constitution. The Canon is linked to the Episcopal Standards Canon 2004 in that the ESC carries out functions under that Canon as well, and the protocol adopted under that Canon may be used for the purposes of this Canon.

38. The *Special Tribunal Canon Repeal Canon 2007* repeals the *Special Tribunal Canon 2004*. A copy of this Canon is set out in Annexure 6 of this report.

39. The Standing Committee has declared its opinion that the Special Tribunal Canon 2007 affects the order and good government of the Church in this Diocese and accordingly the General Synod Standing Committee will consider in due course whether it agrees with this opinion. The Standing Committee recommends that the Synod also declare this opinion and not adopt this Canon.

40. For abundant caution, the Standing Committee also recommends that the Synod declare under section 43(2) of the Canon that should the Canon ever come into force in this Diocese, the ESC may not bring a charge in the Special Tribunal against the Archbishop of Sydney.

41. A bill for the General Synod – Special Tribunal Declarations Ordinance 2009 and an explanatory statement for the bill are printed separately.

#### **Canons for assent by our Synod**

42. Each of the following canons amends the Constitution and do not come into effect until at least  $\frac{3}{4}$  of the diocesan synods, including all of the metropolitan sees, have assented to the canon by ordinance with all such assents to be in force at the same time –

*Constitution Alteration (Chapter IX) Canon Amendment Canon 2007*

*Constitution Amendment (Diocesan Council) Canon 2007*

*Constitution Amendment (Provinces and Dioceses) Canon 2007*

*Constitution Amendment (Section 10) Canon 2007*

*Constitution Amendment (Section 54A) Canon 2007*

*Constitution Amendment (Suspension of Bishops) Canon 2007*

43. Following the outcome of the 2005 reference to the Appellate Tribunal concerning women bishops, the Standing Committee considers that no reliance can now be placed on representations by church bodies or officers as to the effect of amendments to the Constitution proposed by them. Accordingly the Standing Committee is taking a more cautious approach than previously in making recommendations concerning amendments to the Constitution.

***Constitution Alteration (Chapter IX) Canon Amendment Canon 2007***

44. The *Constitution Alteration (Chapter IX) Canon 2007* inserts a new section 63A into the Constitution. Its main purposes are –

- (a) to remove doubts about the validity and powers of Professional Standards Boards and Episcopal Standards Board, and
- (b) to enable the General Synod, by canon, to create such a board in respect of persons licensed by the Primate, and
- (c) to confer a right of appeal from those boards to a specially constituted Review Tribunal.

45. The Canon aims to address the concerns held by our Synod regarding the former version of the Canon passed at the 2004 session of General Synod. The 2004 Canon has not taken effect as an amendment to the Constitution as our Synod declined to assent to the Canon.

46. A copy of this Canon is set out in Annexure 7 of this report.

47. The amendments proposed by this Canon undergird the *Episcopal Standards Canon 2007*. In relation to that Canon, the Standing Committee has acknowledged that there is a regulatory gap to be filled in dealing with matters of misconduct by members of the House of Bishops, however it is not satisfied that the matter should be dealt with through a General Synod canon and would prefer that a diocesan approach to Episcopal standards be taken. Consistent with that view, the Standing Committee also considers that this constitutional amendment should not be supported. Accordingly the Standing Committee recommends that the Synod not assent to the Canon.

***Constitution Amendment (Diocesan Council) Canon 2007***

48. The *Constitution Amendment (Diocesan Council) Canon 2007* amends the definition of “Diocesan Council” in section 74(1) of the Constitution. The Constitution refers to a diocesan council in (at least) sections 30(c), 49, 52(1)(a), 61(4) and 69(1).

49. The amended definition replaces the word “means” with the word “includes” as follows –



“Diocesan Council” in a diocese where there is a synod includes the body exercising powers and functions of the synod on its behalf when it is not in session.

50. The amended definition changes the definition from a prescriptive definition to an inclusive definition in an effort to describe the councils of all dioceses. A number of dioceses do not have a body that exercises powers and functions of the synod. The amended definition is now capable of covering all diocesan councils – whether described as a council, a standing committee or otherwise.

51. A copy of this Canon is set out in Annexure 8 of this report.

52. The Standing Committee considers that the amended form of definition is confusing and that clarification is required. It is not clear what other bodies may also come within the definition of “Diocesan Council” and because of the openness of the definition it may be possible to have more than one body of a diocese satisfying the definition. The Diocesan Secretary has written to the Chairman of the Church Law Commission suggesting alternative drafting that would allow a diocesan synod to declare a body to be its diocesan council. Accordingly the Standing Committee recommends that our Synod not assent to the Canon.

***Constitution Amendment (Provinces and Dioceses) Canon 2007***

53. The *Constitution Amendment (Provinces and Dioceses) Canon 2007* is concerned with providing more flexibility within the Constitution to combine dioceses. The Canon enables provisions to be implemented quickly if required by providing a procedure that is much simpler than the present procedure for schemes of reconstruction.

54. A copy of this Canon is set out in Annexure 9 of this report.

55. The Standing Committee notes that the Canon uses the term “Metropolitan Diocese” whereas the Constitution uses the term “Metropolitan See”. The Standing Committee would like to see consistent terms used. The Standing Committee also has other concerns about the drafting. Accordingly the Standing Committee recommends that our Synod not assent to this Canon.

***Constitution Amendment (Section 10) Canon 2007***

56. The *Constitution Amendment (Section 10) Canon 2007* replaces the present provisions concerning the appointment of an Acting Primate to avoid previous uncertainty about what constitutes an event of “incapacity” of the Primate. An event of incapacity will arise where the Primate issues a written statement that he is unavailable to perform duties for more than fourteen days because of illness, incapacity, absence from Australia or annual or long service leave.

57. A copy of this Canon is set out in Annexure 10 of this report.

58. The Synod declined to consider this Canon at its 2008 session. The Church Law Commission has been advised of the Synod's decision. The Standing Committee understands there are a number of drafting issues in relation to the Canon that need to be resolved. Accordingly the Standing Committee recommends that the Synod not assent to the Canon.

***Constitution Amendment (Section 54A) Canon 2007***

59. The Constitution Amendment (Section 54A) Canon 2007 was promoted to the General Synod as a product of discussions between the Primate, the Bishop to the Defence Forces, the Defence Force Board and the Church Law Commission concerning the best way to ensure that defence force chaplains are subject to appropriate discipline and professional standards regulation.

60. Presently some chaplains may not be subject to any jurisdiction or, because of their mobility, be subject to the jurisdiction of a diocese that has no interest in taking any action.

61. The amendment allows the relevant jurisdiction to be able to be invoked by the Primate. The choice is either the diocese of the Primate or a diocese nominated by the Primate. Either case would require indemnity for costs of the proceedings by the General Synod.

62. The Canon seeks to make provision for this scheme by inserting a new section 54A in the Constitution. The scheme applies to both disciplinary proceedings brought in the diocesan tribunal and to professional standards matters.

63. A copy of this Canon is set out in Annexure 11 of this report.

64. The Standing Committee is concerned about the ability of the Primate to compel a diocesan tribunal to hear a matter notwithstanding provision for costs to be indemnified. Such indemnification only covers "reasonable" costs; there may be other overheads and resourcing implications. The Primate should request that a diocesan tribunal hear a matter and, if the request is declined, the matter should be heard in the Primate's own diocese.

65. The structure of the Defence Force Chaplaincy is also yet to be determined and is likely to be an item of business at the next session of the General Synod. The Standing Committee considers that it is premature to be assenting to the Canon at this time. Accordingly Standing Committee recommends that further consideration of the Canon be deferred until after the structure of the Defence Force Chaplaincy has been settled.

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

66. The Constitution Amendment (Suspension of Bishops) Canon 2007 amends s61A to provide for –

- (a) the possible suspension of any bishop who is subject to a charge before the Special Tribunal,
- (b) machinery to convene and chair a meeting of a diocesan council to consider whether to concur with a proposed suspension, and
- (c) a situation where the Primate is the subject of a charge and possible suspension.

67. The Constitution already provides for suspension of a diocesan bishop who is the subject of a charge before the Special Tribunal. The amendments enable non-diocesan bishops who are subject to a charge before the Special Tribunal to be suspended. The Standing Committee considers that the amendments are not objectionable. Accordingly Standing Committee recommends that our Synod assent to the canon.

68. A bill for the General Synod – Constitution Amendment (Suspension of Bishops) Canon 2007 Assenting Ordinance 2009 and an explanatory statement for the bill are printed separately.

### **Provisional Canon**

#### ***The Solemnization of Matrimony Canon Amendment Canon 2007***

69. *The Solemnization of Matrimony Canon Amendment Canon 2007* has been passed by the General Synod as a provisional canon and must be assented to by the Synod of each diocese before it will come into effect.

70. *The Solemnization of Matrimony Canon Amendment Canon 2007* amends the *Solemnization of Matrimony Canon of 1981* by removing the rule in subsection (b) of the latter Canon requiring at least one party to a marriage solemnized according to Anglican rites to be a baptised person.

71. The Provisional Canon affects the change by deleting subsection (b) of *The Solemnization of Matrimony Canon 1981*.

72. The removal of the baptism requirement will assist in promoting marriage within the non-Christian community. It may also provide a point of contact with couples who may otherwise not attend church and thereby provide opportunities for teaching and evangelism.

73. The Standing Committee is aware that at least three dioceses, including one metropolitan see, have already dissented from the Provisional Canon. The Provisional Canon will therefore return to the General Synod for further consideration regardless of whether our Synod assents to or dissents from it. The Standing Committee understands that there is support among General Synod members for the Provisional Canon. The Standing Committee considers that there is merit in our Synod indicating its assent in order to strengthen the hand of Sydney representatives on the General Synod when the

Provisional Canon is next considered by the General Synod. Accordingly, the Standing Committee recommends that the Synod assent to this Canon.

74. A bill for the General Synod – The Solemnization of Matrimony Canon Amendment Canon 2007 Assenting Ordinance 2009 and an explanatory statement for the bill are printed separately.

75. The Standing Committee considers that, in the event that the General Synod does not pass the Canon, it would be possible for our Synod to exclude *The Solemnization of Matrimony Canon 1981* and re-enact its provisions by ordinance without the requirement that at least one party be a baptised person.

#### **Summary of recommendations to Synod**

76. The Standing Committee recommends that the Synod not adopt the *Episcopal Standards Canon 2007* and the *Holy Orders (Reception into Ministry) Canon 2004*.

77. The Standing Committee recommends that the Synod not assent to the *Long Service Leave Canon 2007*.

78. The Standing Committee recommends that the Synod not adopt the *Protection of the Environment Canon 2007* but that the following motion be moved at our request at the Synod –

“Synod requests that a report be provided to its next session about the environmental initiatives being undertaken in the Diocese.”

79. The Standing Committee recommends that the Synod declare its opinion that the *Offences Canon Amendment Canon 2007* affects the order and good government of the Church in this Diocese and that the Synod adopt the Canon.

80. The Standing Committee recommends that the Synod declare its opinion that the *Special Tribunal Canon 2007* affects the order and good government of the Church in this Diocese and that the Synod not adopt the Canon. For abundant caution the Standing Committee also recommends that should the *Special Tribunal Canon 2007* ever come into effect in this Diocese, that the Synod declare by ordinance under section 43(2) of the Canon that the ESC may not bring a charge against the Archbishop of Sydney.

81. The Standing Committee recommends that the Synod not assent to the *Constitution Amendment (Chapter IX) Canon 2007*, the *Constitution Amendment (Diocesan Council) Canon 2007*, the *Constitution Amendment (Provinces and Dioceses) Canon 2007* and the *Constitution Amendment (Section 10) Canon 2007*.

82. The Standing Committee recommends that further consideration of the *Constitution Amendment (Section 54A) Canon*

2007 be deferred until after the structure of the Defence Force Chaplaincy has been settled.

83. The Standing Committee recommends that the Synod assent to the *Constitution Amendment (Suspension of Bishops) Canon 2007*.

84. The Standing Committee recommends that the Synod assent to *The Solemnization of Matrimony Canon Amendment Canon 2007*.

For and on behalf of the Standing Committee.

ROBERT WICKS  
*Diocesan Secretary*

25 August 2009

**Annexure 1**

**Episcopal Standards Canon 2007**

A canon relating to professional standards of bishops and for other purposes.

The General Synod prescribes as follows:

**PART 1 – PRELIMINARY**

- 1 This Canon may be cited as the “Episcopal Standards Canon 2007”.
- 2 In this Canon, unless the context otherwise requires:
  - “**Administrator**” means the person who would, in the absence or incapacity of a Bishop, be the administrator of a diocese;
  - “**Bishop**” means a bishop referred to in section 56(6) of the Constitution; and “bishop” means a person in bishop’s orders;
  - “**Board**” means the Episcopal Standards Board established under Part 6;
  - “**Church**” means the Anglican Church of Australia;
  - “**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;
  - “**Code of Conduct**” means a code of conduct approved from time to time under Part 2;
  - “**Director**” means the Director of the ESC appointed under the Special Tribunal Canon 2007;
  - “**Episcopal Standards Commission**” or “ESC” means the Episcopal Standards Commission appointed under the Special Tribunal Canon 2007;
  - “**examinable conduct**” means any conduct or omission wherever or whenever occurring the subject of information which, if established, might call into question the fitness of a Bishop to hold office or to be or remain in Holy Orders but excludes any breach of faith, ritual or ceremonial;
  - “**information**” means information of whatever nature and from whatever source relating to the alleged misconduct or omission of a Bishop wherever or whenever occurring;
  - “**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 Board;

“**protocol**” means the protocol approved from time to time by the Standing Committee under Part 3;

“**relevant Metropolitan**”, means:

- (a) in relation to the bishop of a diocese:
  - (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
  - (iii) if the bishop is the Metropolitan but not the Primate, the Primate; or
  - (iv) if the 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
- (b) in relation to any other Bishop, the Primate;

“**respondent**” means a Bishop whose alleged conduct or omission is the subject of information;

“**Standing Committee**” means the Standing Committee of General Synod;

“**Tribunal**” means the Special Tribunal.

## **PART 2 – CODE OF CONDUCT**

- 3 The General Synod or the Standing Committee shall from time to time by resolution approve a Code of Conduct for observance by Bishops, which does not make provision for any matter concerning faith, ritual or ceremonial, provided that any changes to the Code of Conduct made by the Standing Committee shall be referred to the next session of General Synod for ratification.
- 4 The Standing Committee through the ESC and by such other means as may be considered appropriate shall take such steps as may be necessary or desirable to promote the knowledge, understanding and observance in this Church of the Code of Conduct. A code of conduct must not make provision for any matter concerning faith, ritual or ceremonial.

## **PART 3 – THE PROTOCOL**

- 5 (1) The Standing Committee shall from time to time consider and approve a protocol for implementation in relation to information.
- (2) The protocol must include:

- (a) procedures for receiving information;
  - (b) provision for informing complainants and victims of alleged conduct the subject of information, and respondents, of rights, remedies and relevant procedures available to them;
  - (c) provision for assisting or supporting, as appropriate, all persons affected by alleged conduct the subject of information;
  - (d) an explanation of the processes for investigating and dealing with information;
  - (e) provisions for dealing fairly with respondents;
  - (f) processes for referral to mediation and conciliation in appropriate circumstances;
  - (g) provisions for 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;
  - (h) procedures for working, where appropriate, with law enforcement, prosecution or child protection authorities of the States and Territories and of the Commonwealth of Australia.
- 6 The Standing Committee through the ESC and by such other means as it may consider appropriate shall take such steps as may be necessary or desirable to promote throughout the Church a knowledge and understanding of the protocol.

#### **PART 4 – THE EPISCOPAL STANDARDS COMMISSION**

- 7 (1) In addition to the powers conferred on it by the Special Tribunal Canon 2007 and subject to the provisions of this Canon the ESC has the following powers and duties:
- (a) to implement the protocol to the extent that the protocol is not inconsistent with this Canon;
  - (b) to receive information;
  - (c) to act on information in accordance with the provisions of this Canon, and the protocol to the extent that it is not inconsistent with this Canon;
  - (d) to appoint suitable persons to fulfil the several roles required to implement the protocol in each particular case;
  - (e) where appropriate, to arrange for the conciliation or mediation of any complaint the subject of information;



- (f) to investigate information in a timely and appropriate manner;
  - (g) where appropriate, to recommend to the Standing Committee any changes to the protocol;
  - (h) subject to any limit imposed by the Standing Committee to authorise such expenditure on behalf of the General Synod as may be necessary or appropriate to implement, in a particular case, the protocol and the provisions of this Canon;
  - (i) to advise any relevant Church body as to the financial, pastoral or other needs of a person affected by conduct the subject of information and as to any possible or actual legal proceedings against such Church body arising out of the alleged conduct of a bishop;
  - (j) to refer any information in its 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;
  - (k) to maintain proper records of all information received and of action taken in relation to such information.
- (2) The Director may receive information on behalf of the ESC and shall carry out such functions under this Canon as the ESC may determine.
- 8 (1) In the exercise of its powers and duties under this Canon the provisions of sections 8, 9 and 10 of the Special Tribunal Canon 2007 shall apply to the ESC as if reference therein to the Tribunal were a reference to the Board and reference to a complaint were a reference to information.
- (2) Subject to subsection (3), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its powers or functions under this Canon to any person.
- (3) The ESC cannot delegate:
- (a) its powers under subsection (2);
  - (b) its powers under section 13; or
  - (c) its powers under section 16.
- (4) A delegation under this section must be made by instrument in writing signed by a member of the ESC.

**PART 5 – EXAMINABLE CONDUCT**

- 9 Subject to this Canon, where the ESC considers that the subject matter of information constitutes examinable conduct it shall investigate the information.
- 10 The ESC may decide not to investigate the information or may refrain from further investigation of the information if:
- (a) in its opinion, the allegations the subject of the information are vexatious or misconceived, or their subject matter is trivial;
  - (b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
  - (c) the person making allegations of examinable conduct or a person affected by the conduct the subject of the information has failed, when requested by the ESC, to provide further particulars or to verify the allegations by statutory declaration; or
  - (d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation.
- 11 For the purpose of an investigation the ESC or an investigator shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or desirable.
- 12 (1) The ESC may by notice in writing to a respondent require the respondent to provide a detailed report to the ESC within the time specified in the notice in relation to any matter relevant to the investigation.
- (2) It is the obligation of a respondent:
- (a) not to mislead the ESC or a member or delegate of the ESC;
  - (b) not unreasonably to delay or obstruct the ESC or a member or delegate of the ESC in the exercise of powers conferred by this Canon.
- (3) If a respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.
- 13 (1) 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 that action may be taken under paragraph (b) or (c) of section 16, it may recommend to the Diocesan Council or, in the case of a

Bishop who is not a diocesan bishop, to the Primate, that the Bishop be suspended from the duties of office.

- (2) If the Diocesan Council, meeting when the Bishop is not present, or the Primate, as the case may be, concurs in the recommendation, the President of the Board, after considering any submission from the Bishop, may suspend the Bishop from the duties of office.
  - (3) The meeting of the Diocesan Council referred to in sub-section (2) shall be chaired by a Diocesan Bishop appointed by the Primate with the concurrence of a majority of the Metropolitans. The Diocesan Bishop so appointed shall not have a vote at the meeting.
  - (4) Where an investigation has been commenced against the Primate under this part, the powers and functions of the Primate under sub-section (3) shall be exercised by the person who would exercise the authorities, powers, rights and duties of the Primate if there were a vacancy in the office.
  - (5) For the purposes of this section a reference to the Metropolitans excludes a Metropolitan who at the time is the subject of an investigation under this part.
- 14 Before suspending a Bishop from the duties of office the President of the Board shall take into account:
- (a) the seriousness of the conduct alleged in the information;
  - (b) the nature of the material to support or negate the allegations;
  - (c) whether any person is at risk of harm;
  - (d) after consultation with the relevant Diocesan Council or its representative, the effect on the respondent, a relevant Church body and on the Church in the diocese of acting and of not acting under section 13; and
  - (e) any other allegation of similar examinable conduct previously made to the ESC or to an equivalent body within the previous ten years;
- and may take into account any other relevant matter.
- 15 (1) A suspension under section 13 or a voluntary standing down from office by the Bishop as a result of an investigation by the ESC:
- (a) has effect as an absence of the Bishop from the see or from office as the case may require; and

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- (b) continues until it ceases to have effect by reason of –
    - (i) the ESC terminating the investigation without taking action under section 16;
    - (ii) a determination to that effect by the Board or the Tribunal as the case may be; or
    - (iii) the see or the office becoming vacant (whether or not under this Canon);whichever first occurs.
  - (2) During any such suspension or voluntary standing down the Bishop is entitled to receive whatever stipend, allowances and other benefits that would otherwise have accrued and which are to be met or reimbursed by the body normally responsible for their payment.
- 16 At any time after the commencement of an investigation under this Part the ESC may:
  - (a) if it considers on reasonable grounds that the Bishop may be incapable, report the matter in writing to the relevant Metropolitan, and such report shall be a report for the purposes of section 4 of the Bishop (Incapacity) Canon 1995 as if it were made by three members of the synod of a diocese pursuant to that section;
  - (b) refer to the Board the fitness of the Bishop, whether temporarily or permanently, to hold office or to remain in Holy Orders;
  - (c) whether or not the information the subject of the investigation is also the subject of a complaint under the Special Tribunal Canon 2007, institute, amend or withdraw proceedings by way of charge against the Bishop before the Tribunal; or
  - (d) in the event that the bishop whose conduct is under investigation ceases to be a Bishop, refer the matter, together with such information as it shall have received, to the bishop of the diocese in which the former Bishop then resides.
- 17 (1) The fact that the subject matter of a complaint or dispute concerning examinable conduct may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in section 16 in respect of the subject matter of the complaint or dispute.

- (2) Any term of settlement or resolution referred to in subsection (1) which purports to prevent or to limit the institution of such proceedings shall be of no effect.
- (3) A matter shall not be referred to the Board, a reference to the Board shall not continue and proceedings shall not be instituted or maintained in the Special Tribunal where the bishop concerned has relinquished or has been deposed from Holy Orders in accordance with the Holy Orders Relinquishment and Deposition Canon 2004.

**PART 6 – EPISCOPAL STANDARDS BOARD**

- 18 There shall be an Episcopal Standards Board constituted and appointed in accordance with the provisions of this Part.
- 19 (1) Subject to the provisions of this Canon the function of the Board is to inquire into and determine a question referred to it pursuant to section 16, to make a determination referred to in section 49 and where appropriate to make a recommendation in accordance with the provisions of this Canon.
  - (2) Subject to section 17(3) the Board may make a determination and recommendation referred to in subsection (1) notwithstanding that the bishop whose conduct is the subject of the reference has ceased, after the reference, to be a Bishop.
- 20 (1) The members of the Board in a particular case shall be appointed from a panel comprising:
  - (a) a President and a Deputy President, both of whom shall be persons who are eligible for appointment as lay members of the Appellate Tribunal;
  - (b) five persons in bishop's orders; and
  - (c) five persons who are members of the Church not in bishop's orders.
  - (2) A person who is a member of the panel from whom the members of the Tribunal may be appointed is eligible for appointment to the panel.
- 21 The members of the panel shall be appointed by the Standing Committee and shall hold office in accordance with a resolution of the Standing Committee.
- 22 Any vacancy in the membership of the panel shall be filled by or in accordance with a resolution of the Standing Committee.

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- 23 (1) The members of the panel to be convened for any reference to the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
- (2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two of the episcopal and other members of the panel.
- (3) Where possible, the Board shall include at least one man and at least one woman.
- (4) Where, in the opinion of the President or, if there is a vacancy in the office of the President, in the opinion of the Deputy President a member of the panel has a personal interest in a matter before the Board the member shall be disqualified from participating in the reference.
- (5) For the purposes of this section a vacancy in the office of President includes a situation in which the President is not able to act because of a personal interest in a matter, illness or absence from Australia.
- 24 (1) The Rules of the Board made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, the Board may, at the direction of the presiding member, be constituted by a single member sitting alone.
- (2) The Board, if constituted by a single member sitting alone, cannot make a determination under section 49.
- 25 If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board, the Board constituted of the presiding member and the other member or members may, if the presiding member so determines, continue and complete the reference.
- 26 The Board, 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 Board.
- 27 An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the Board, any such act or proceeding is as valid and

- effectual as if the member had been duly nominated or appointed.
- 28 There shall be a Secretary to the Board who shall be appointed by or in accordance with a resolution of the Standing Committee, and whose duties shall be defined by the President.
- 29 (1) In any proceedings of the Board where the Board is constituted by two or more members:
- (a) any question of law or procedure will be determined by the presiding member; 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 presiding member shall prevail.
- (2) Where the Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board.
- (3) The Board 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.
- (4) Without limiting the meaning and effect of sub-section (3), the Board 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, but must permit the respondent and his representative (if any) opportunity to adequately cross-examine each witness
- (5) The Board 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.
- 30 The Board may, for the purpose of any particular reference and at the cost of the General Synod, appoint such person or persons, including the Director, to assist it in inquiring into (but not determining) that reference as the Board thinks fit.
- 31 The Board must give reasons for any determination, other than by way of directions in the course of an inquiry, unless the determination is made by consent of the respondent.

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- 32 (1) The Board has no power to award costs of any proceedings before it.
- (2) A bishop in relation to whom a question is the subject of a reference to the Board may apply to the Standing Committee for the provision of legal assistance.
- (3) The Standing Committee may grant legal assistance to a bishop on such terms and subject to such conditions as it shall determine.
- 33 (1) The President may make Rules of the Board reasonably required by or pursuant to this Canon and in relation to the practice and procedure of the Board.
- (2) Subject to this Canon and the relevant Rules, the practice and procedure of the Board will be as directed by the presiding member of the Board.

**PART 7 – REFERENCE OF MATTERS TO THE EPISCOPAL STANDARDS BOARD**

- 34 A question shall be referred to the Board by delivering to the Secretary of the Board a written report of the investigation of the ESC signed by a member of the ESC.
- 35 The Board shall not, in the course of inquiring into any question:
- (a) inquire into any matter which is or has been the subject of any formal investigation or enquiry conducted;
    - (i) under or pursuant to any provision of the Constitution; or
    - (ii) under or pursuant to a Canon of the General Synod or an Ordinance of a diocese relating to the discipline of clergy or Church workers by a board of enquiry, tribunal or other body;but may take into account the finding of any such formal investigation or enquiry;
  - (b) inquire into, make any findings in relation to or take into account any alleged breach of:
    - (i) faith of the Church, including the obligation to hold the faith;
    - (ii) ritual of the Church, including the rites according to the use of the Church and the obligation to abide by such use; or
    - (iii) ceremonial of the Church, including ceremonial according to the use of the



Church and the obligation to abide by such use.

- 36 (1) Upon delivery of the report to the Secretary of the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.
- (2) The President or Deputy President as the case may require shall thereupon cause to be convened a sitting for the purpose of giving directions.
- (3) A person or body appearing or represented before the Board shall comply with the Rules of the Board and with any directions given by the Board.
- 37 Within 14 days of the date of the reference of a matter to the Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the ESC shall cause to be delivered to the Secretary of the Board any documents and material relevant to the reference.
- 38 The ESC, as soon as practicable after delivering the report referred to in section 34 to the Secretary of the Board, shall cause a signed copy of the report to be delivered to the respondent.
- 39 The Board may at any time and from time to time give directions:
- (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference;
- (b) as to the conduct of its inquiry into the reference.
- 40 The Board may at any time and from time to time give directions to the ESC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the ESC shall to the best of its ability cause such directions to be carried out.
- 41 (1) The Board shall deal with any reference as expeditiously as possible.
- (2) The Board may, if it sees fit, proceed with the determination of a reference notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the reference being conducted by or at the direction of the ESC and notwithstanding that there may be criminal or other proceedings being taken against the respondent or some other person.

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- 42 (1) The place and time of sitting of the Board comprising two or more members shall be as determined by the presiding member.
- (2) The place and time of sitting of the Board comprising one member shall be as determined by that member.
- 43 (1) Subject to sub-section (2), the Board must give the following persons reasonable notice of the time and place of a sitting of the Board:
- (a) the Director; and
  - (b) the respondent; and
  - (c) such other persons as the Board believes have a proper interest in the matter.
- (2) The Board is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.
- 44 In any proceedings before the Board:
- (a) the ESC and any person may be represented by a legal practitioner or, with leave of the Board, by any other person;
  - (b) the ESC or its appointed representative shall do all in its power to assist the Board and shall carry out any directions of the Board;
  - (c) the Board:
    - (i) must give the ESC and the respondent a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board; and
    - (ii) must give any other person to whom notice of the proceedings was given or who satisfies the Board that he or she has a proper interest in the matter a reasonable opportunity to make submissions to the Board.
- 45 (1) Subject to sub-section (2), a sitting of the Board on a reference before the Board is an open sitting.
- (2) On any such sitting before the Board, the Board has an absolute discretion:
- (a) to direct that no person other than:
    - (i) the respondent and any person representing him or her in the proceedings; and

- (ii) witnesses or persons making submissions (while giving evidence or making those submissions); and
    - (iii) officers of the Board or persons assisting the Board; and
    - (iv) members of or persons appointed by the ESC;be present in the room while the Board is sitting; or
  - (b) to direct that a particular person (other than a person referred to in paragraph (a)) not be present in the room while the Board is sitting.
- 46 The Board may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.
- 47 (1) The Board may require a respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the Board the cost of which shall be met from funds under the control of the General Synod.
- (2) A copy of the report of an examination under subsection (1) shall be provided to the respondent and to the Board.
- 48 In making any determination the Board shall take into account:
- (a) the conduct of the bishop as it finds it to have been;
  - (b) in the material before the Board, any other fact or circumstance relevant to the determination of the question before it; and
  - (c) any failure of the bishop to comply with a provision of this Canon or with a direction of the Board.
- 49 If, after investigating the question referred to it about a bishop, the Board is satisfied that:
- (a) the bishop should be counselled;
  - (b) the bishop's continuation in office should be subject to conditions or restrictions;
  - (c) the bishop is unfit, whether temporarily or permanently, to hold office; or
  - (d) the bishop is unfit to remain in Holy Orders;
- the Board may determine accordingly and may:

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- (e) direct that the bishop be counselled;
  - (f) direct that the bishop's holding of office shall be subject to such conditions or restrictions as the Board may specify;
  - (g) direct that the bishop cease to carry out the duties and functions of his office from such time and for such period determined by the Board;
  - (h) direct that the bishop resign from the office, within such time as is specified by the Board;
  - (i) direct that the operation of a determination referred to in paragraphs (f) to (h) shall be suspended for such period and upon such conditions as the Board shall specify;
  - (j) direct that the bishop relinquish Holy Orders within such time as is specified by the Board;
  - (k) give such other direction as the Board sees fit.
- 50 The Board shall cause a copy of each determination and direction to be provided:
- (a) to the Primate;
  - (b) to the relevant Metropolitan;
  - (c) to the respondent;
  - (d) to the relevant administrator; and
- shall cause relevant details to be forwarded for entry into the national register.
- 51 (1) The bishop shall comply with a direction of the Board.
- (2) Failure of the bishop to comply with a direction of the Board is an offence.
- (3) The ESC may institute proceedings forthwith in the Tribunal in respect of an offence against this section or, if the bishop is no longer a Bishop, shall refer the matter, together with such relevant information concerning the alleged offence as may be in its possession, to the bishop of the diocese in which the bishop is then resident.

**PART 8 – APPEAL**

- 52 In this Part, unless the context otherwise requires
- “reviewable decision” means a recommendation or determination of the Board other than by way of an interlocutory order;
- “Review Tribunal” means the Review Tribunal referred to in section 63A of the Constitution or, if no such section has been

enacted, a Review Tribunal constituted for the purposes of this Part;

“the appropriate State professional body” means the Bar Association or equivalent body or, if there is no such body, the Law Society of the State or Territory in which the Bishop when a Bishop resides or resided as the case may be;

“the relevant Chancellor” means the Primate’s Chancellor or, if the intended subject of a review under this Part is the Primate, the Chancellor of the Senior Metropolitan referred to in section 10 of the Constitution.

- 53 For the purposes of this Canon the Review Tribunal shall consist of a barrister of not less than 5 years standing appointed by the President of the appropriate State professional body or, if the President is unwilling to appoint, or unreasonably delays doing so, appointed by the relevant Chancellor.
- 54 A bishop who is aggrieved by a reviewable decision may apply to the Director for a review of the decision.
- 55 The application may be made on any one or more of the following grounds:
- (a) That a breach of the rules of natural justice happened in relation to the making of the reviewable decision which materially affected the decision;
  - (b) That procedures that were required by this Canon to be observed in relation to the making of the reviewable decision were not observed, and the non-observance materially affected the decision;
  - (c) That the Board did not have jurisdiction to make the reviewable decision; or
  - (d) That the reviewable decision was so devoid of any plausible justification that no reasonable Board could have made it.
- 56 For a reviewable decision, the provisions of section 51 shall not apply until the time for lodging an application for review has passed, and no application has been lodged.
- 57 The making of an application for review acts as a stay of the reviewable decision pending determination by the Review Tribunal.
- 58 For a reviewable decision, the Board shall not cause the relevant details to be forwarded for entry into the national register under section 50 until:
- (a) the time for lodging an application for review has passed, and no application has been lodged; or

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- (b) where an application for review has been heard and determined, the determination has been made.
- 59 If leave to appeal is refused or a determination on review confirms or varies a reviewable decision, then the Board must cause the details of the confirmed or varied decision to be forwarded for entry into the national register as soon as it receives the Review Tribunal's determination.
- 60 If a Review Tribunal's determination refers a matter back to the Board, then the Board must:
  - (a) determine to take no further action in respect of the matter; or
  - (b) deal with the matter in accordance with Part VII of this Canon, in accordance with such directions or recommendations as the Review Tribunal may make in the Tribunal's determination; or
  - (c) deal with the matter in accordance with Part VII of this Canon applying such of the provisions of Part VII as, in the discretion of the Board and in accordance with the Review Tribunal's determination, the Board sees fit.
- 61 An application to the Director for review of the reviewable decision must be made within 14 days of the bishop's being provided with a copy of the Board's determination and recommendation under section 50. The application for review must:
  - (a) be in writing addressed to the Director; and
  - (b) set out the grounds for review in the application.
- 62 On receipt of an application for review, the Director must immediately seek the appointment of a Review Tribunal.
- 63 Upon appointment of a Review Tribunal, the Director must ask the Review Tribunal for the Tribunal's estimate of the fee to be charged by the Review Tribunal in making a determination under this Part. Upon receipt of advice as to the estimated fee, the Director must immediately notify the applicant. Within 7 days of receipt of the Director's advice, or such further time as the Review Tribunal may allow, the applicant must pay one half of the estimated fee to the Review Tribunal, or to a person nominated by the Tribunal. If the applicant fails to make the payment within the time specified, then the application for review will lapse.

- 64 Unless otherwise specified in this Canon, the manner in which the review is to be conducted will be determined by the Review Tribunal.
- 65 On an application for review of a reviewable decision, the Review Tribunal may make all or any of the following determinations:
- (a) a determination quashing or setting aside the reviewable decision;
  - (b) a determination referring the matter to which the reviewable decision relates to the Board for further consideration, subject to such directions (including the setting of time limits for the further consideration, and for the steps to be taken in the further consideration) as the Review Tribunal determines;
  - (c) a determination declaring the rights of the applicant in relation to any matter to which the reviewable decision relates;
  - (d) a determination directing either the applicant or the Board, to do, or to refrain from doing, anything that the Review Tribunal considers necessary to do justice between the parties; or
  - (e) a determination confirming the reviewable decision.
- 66 The Review Tribunal may make such order as to the costs of the review as the Tribunal thinks fit.
- 67 The review shall be by way of a review of the recommendation or determination that is the subject of the review and not by way of re-hearing."

#### **PART 9 – REGULATIONS**

- 68 The Standing Committee may from time to time make, amend or repeal Regulations, not inconsistent with the provisions of this Canon, providing for records arising out of or incidental to the operation of this Canon, and for all or any of the purposes whether general or to meet particular cases, which may be convenient for the administration of this Canon or which may be necessary or expedient to carry out the objects and purposes of this Canon.

#### **PART 10 – ADOPTION**

- 69 The provisions of this canon affect the order and good government of this Church within a diocese and shall not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the Diocese

**Annexure 2**

**Holy Orders (Reception into Ministry) Canon 2004**

The General Synod prescribes as follows:

**Short title**

1. This Canon may be cited as the *Holy Orders (Reception into Ministry) Canon 2004*.

**Reception into ministry**

2. (1) Subject to sub-section (2), where a person has been consecrated bishop or ordained priest or deacon in a Church which is not in communion with this Church by a bishop or bishops within the historic episcopate, the bishop of a diocese of this Church may receive that person into the ministry of this Church as bishop, priest or deacon, as the case may be.
- (2) Before a bishop of a diocese receives a person into the ministry of this Church under this section, the bishop must first be satisfied by good and credible evidence—
  - (a) that the character and mode of living of the person as attested by witnesses specified by the bishop befit an ordained minister of this Church;
  - (b) that the attainments of the person in academic and theological studies are adequate for the person's proposed ministry in this Church;
  - (c) if the diocese is in a Province and the person is a bishop, a majority of the diocesan bishops of the Province have approved the proposed reception of the person into the ministry of this Church;
  - (d) if the diocese is not in a Province and the person is a bishop, a majority of the Metropolitans have approved the proposed reception of the person into the ministry of this Church;
  - (e) that the person's reasons for desiring to be received into the ministry of this Church are sound and proper;
  - (f) that the person —
    - (i) has a sufficient knowledge of the doctrine, discipline and forms of worship of this Church and has a sufficient understanding of the matters in which this Church differs from the Church in which the person was consecrated or ordained; and



- (ii) accepts the doctrine, discipline and principles of worship of this Church.

#### **Form of service**

- 3. A person may be received into the Ministry of this Church in accordance with a form of service authorised by General Synod or prepared by the Liturgy Commission and approved by the Standing Committee of General Synod.

#### **Authority to minister**

- 4. A person received into the ministry of this Church under this Canon shall not exercise the ministry of bishop, priest or deacon in this Church unless pursuant to the Constitution and the ordinances of this Church and the ordinances of the relevant diocese and Province the person has been elected or appointed to an Episcopal office in this Church or is otherwise duly authorised by the bishop of a diocese to minister as a bishop, priest or deacon in that diocese.

#### **Operation of Canon in diocese that has not adopted certain Canons**

- 5. (1) Nothing in this Canon shall make it lawful for a woman ordained to the office of deacon in a Church not in communion with this Church to be received into the ministry of this Church as a deacon in a diocese in with the *Ordination of Women to the Office of Deacon Canon 1985* is not in force.
- (2) Nothing in this Canon shall make it lawful for a woman ordained to the office of priest or consecrated to the office of bishop in a Church not in communion with this Church to be received into the ministry of this Church as a priest or a bishop in a diocese in which the *Law of the Church of England Clarification Canon 1992* is not in force.

#### **Coming into force by adoption**

- 6. The provisions of this canon affect the order and good government of this Church within a diocese and shall not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.

**Annexure 3**

**Long Service Leave Canon 2007**

**A Canon to repeal the Long Service Leave Canon 1992 – 1995 and the Long Service Leave (Amendment) Canon 2001 and to make provision for the continued operation of the Long Service Leave Fund.**

The General Synod prescribes as follows:

**Title**

1. This Canon may be cited as the “Long Service Leave Canon 2007”.

**Commencement**

2. (1) This Canon comes into operation on the first day of January next following the receipt by the General Secretary of General Synod of notices that it has been assented to by Ordinance of each of the dioceses that are participating dioceses under the Long Service Leave Canon 1992-1995 (the "Former Canon") (in this Canon called “the date of commencement”).  
  
(2) When the General Secretary of General Synod has received the necessary notices of assent for the purpose of sub-section (1), the General Secretary of General Synod shall notify as soon as possible each diocese of the date of commencement.

**The Board**

3. The Long Service Leave Board established by the Former Canon continues in existence under and subject to this Canon and the Schedule to this Canon.

**The Fund**

4. The Long Service Leave Fund maintained under the Former Canon continues in existence under and subject to this Canon and is in this Canon called “the Fund”.

**Repeal**

5. The Former Canon and the Long Service Leave (Amendment) Canon 2001 are repealed except that (save as provided in this Canon expressly or by necessary implication) all persons things and circumstances appointed or created by or under the Former Canon or existing or continuing under it immediately before the date of commencement under and subject to this Canon and the Schedule continue to have the same status operation and

effect as they respectively would have had if the Former Canon had not been so repealed.

#### **Entitlements**

6. The provisions of the Long Service Leave scheme are prescribed in the Schedule.

#### **Amendments to Schedule**

7. (1) The Standing Committee of General Synod
- (a) may make regulations relating to the general operation of this Canon;
  - (b) may, with the written consent of each Metropolitan, make such regulations amending the Schedule as the Standing Committee considers necessary for the purpose of ensuring that its provisions are consistent with legislation enacted by the Commonwealth, a State or Territory and applicable to the subject matter of this Canon.
- (2) A regulation made under sub-section (1)(b) ceases to have effect on 31 December after the close of the next ordinary session of General Synod.
8. Any amendments to the Schedule shall be advised to the participating dioceses and organisations within 60 days of the agreement in clause 8.

#### **Financial Protection Canon**

9. The Corporation referred to in the Schedule is declared to be an Organisation to which the Financial Protection Canon 1995 applies.

#### **Transitional**

10. Except as provided by this Canon expressly or by necessary implication all people things and circumstances appointed or created by or under the Former Canon and the Initial Canon continue to have the same status operation and effect as they respectively would have had if the Former Canon or the Initial Canon had not been repealed.

## SCHEDULE

### PART I: INTRODUCTORY

#### **Definitions**

1. (1) Under this Schedule or in any regulation made pursuant to the provisions of this Schedule except in so far as the

context or subject matter otherwise requires or indicates—

“Board” means the Long Service Leave Board constituted under Part II of this Schedule;

“Church” means the Anglican Church of Australia;

“Commencement Date” means the date of commencement of the Long Service Leave Canon 2007;

“Corporation” means the company limited by guarantee incorporated under the law of Victoria under the name Anglican Long Service Leave Fund Limited;

“Eligible Charity” means an institution, fund or trust established and maintained for the advancement of religion or other public charitable purposes the income of which is exempt from income tax in Australia;

“Former Canon” means the Long Service Leave Canon 1992 -1995;

“Fund Year” means a period of 12 months ending on the 31st day of December, or on such other date as the Board may determine, and includes, if the Board determines another date, such period more or less than 12 months as the Board determines;

“Initial Canon” means the Long Service Leave Canon 1966-1987;

“Member of the Clergy” means –

- (i) a bishop of a diocese;
- (ii) a person in holy orders collated instituted or licensed by the bishop of a diocese to the cure of souls in a parish or to any other appointment in a parish;
- (iii) a bishop, dean, archdeacon, canon, principal, vice principal or tutor in holy orders of a university or theological college, a principal of a school or a chaplain, or other person in holy orders licensed to a distinct official position in the diocese or holding some other licence of the bishop of the diocese;
- (iv) a person in holy orders on missionary service;
- (v) for the purposes of this Schedule, in relation to a diocese the synod of which so resolves, a person licensed by the bishop of the diocese to exercise the office of deaconess in that diocese; or
- (vi) the Bishop to the Defence Force and defence force chaplains in holy orders;

“Notional Stipend” means notional annual stipend within the meaning of section 41;

“Ordinary Stipend” in relation to a participant means stipend or salary at the rate paid to the participant immediately preceding the date on which the participant enters or is deemed to enter upon long service leave;

“Parish” includes any parochial district, or similar pastoral division constituted by or under ordinance of the synod of a diocese;

“Participant” means –

- (i) a member of the clergy in receipt of an ordinary stipend; or
- (ii) a person employed by a participating diocese or participating organisation who:
  - (a) with the consent of the Board is nominated as a participant by the participating diocese or participating organisation; or
  - (b) is a member of a class of people defined with the consent of the Board as a participant by the participating diocese or participating organisation;

for the purposes of this Schedule;

“Participating Diocese” means –

- (i) a diocese of the Church which was a participating diocese for the purposes of the Initial Canon or the Former Canon; and
- (ii) a diocese of the Church admitted under Part V of this Schedule to be a participating diocese;

“Participating Organisation” means –

- (i) an organisation which was a participating organisation for the purposes of the Initial Canon or the Former Canon; and
- (ii) an organisation admitted under Part V of this Schedule to be a participating organisation;

“Proper Officer” in relation to a participating organisation, means the person particulars of whose office, name and address are furnished to the Board by the participating organisation as those of the proper officer for the time being of the organisation for the purposes of this Schedule;

“Qualifying Service” means qualifying service within the meaning of section 34;

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“Sabbatical Allowance” means an allowance paid to a participant to assist with the cost of taking leave;

“Service” means paid service in a full time or part time capacity as a participant;

- (i) in a diocese of the Church or in a diocese which was formerly part of the Church;
- (ii) as a missionary being service which the Board with the approval of the Standing Committee prescribes either generally or in a particular case to be or to have been missionary service; or
- (iii) as an employee of a participating organisation.

and includes any period during such service of annual holiday leave or of furlough and any period of long service leave under the Initial Canon and/or Former Canon or this Schedule, and “serve” and “serving” have corresponding meanings; and

“Standing Committee” means the Standing Committee of General Synod.

- (2) Except in so far as the context or subject matter otherwise requires or indicates, words importing the singular number include the plural number and vice versa and words importing the masculine gender import the feminine and except for the word “deaconess”, words importing the feminine gender import the masculine.
- (3) Headings of parts of this Schedule are deemed to be part of this Schedule but the headings to sections and any footnotes are not.

**PART II: THE BOARD**

**The Board**

- 2. For the purposes of this Schedule there is a Board called the Long Service Leave Board.

**Membership**

- 3. (1) A person may not be elected a member of the Board who has been declared by any competent court incapable of managing his or her affairs;
  - (a) 1 member of the House of Bishops;
  - (b) 2 members of the House of Clergy; and
  - (c) 4 members of the House of Laity;each of them elected at an Ordinary Session of General Synod by the House of which that person is a member.

- (3) Upon the date of commencement, the persons who held office as members of the Board established by the Former Canon hold office as members of the Board established by this Schedule as if duly elected by the respective House of General Synod of which they are members.
- (4) A member of the Board to whom sub-section (3) applies holds office, subject to this Schedule, until:
  - (a) in the case of the member who is a member of the House of Bishops, or of the member who is a member of the House of Clergy and the 2 members who are members of the House of Laity to whom this paragraph applies, the first ordinary session of General Synod next following the date of commencement; or
  - (b) in the case of any other of those members - until the second ordinary session of General Synod next following the date of commencement.
- (5) The members of the House of Clergy, and the members of the House of Laity, respectively, shall determine among themselves which member of the House of Clergy and which 2 members of the House of Laity paragraph 3(4)(a) shall apply to and, failing determination within 1 month after the date of commencement, the General Secretary of General Synod shall make the determination by lot.
- (6) Subject to sub-section 3(4):
  - (a) a member of the Board elected by the House of Bishops holds office until the ordinary meeting of General Synod next following the election of the member; and
  - (b) a member of the Board elected by the House of Clergy or House of Laity holds office until the second ordinary session of General Synod next following the election of the member.
- (7) A member of the Board is eligible for re-election if still a member of a House of General Synod.

**Vacancies**

- 4. (1) A member of the Board ceases to hold office if the member –
  - (a) resigns;
  - (b) dies;

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- (c) is declared by any competent court incapable of managing his or her affairs and remains so;
  - (d) fails to attend three successive meetings of the Board without leave of the Board; or
  - (e) is removed by resolution of the Standing Committee.
- (2) The Standing Committee by resolution may at any time –
- (a) remove a member of the Board from office; or
  - (b) fill a vacancy which occurs in an office of member of the Board.
- (3) If a vacancy is filled by the Standing Committee under sub -section (2) the office of a member of the House of Bishops must be filled by a member of the House of Bishops, the office of a member of the House of Clergy must be filled by a member of the House of Clergy and the office of a member of the House of Laity must be filled by a member of the House of Laity.
- (4) A vacancy or the omission to fill a vacancy does not affect the acts or authority of the Board.
- (5) A person appointed to fill a vacancy holds office for the balance of the term of the person being replaced.

**Chair**

5. (1) The Board at its first meeting after each General Synod must elect from among its members a person to occupy the chair.
- (2) In the absence of that person from a meeting of the Board the members present must elect from among themselves some other person to occupy the chair.

**Quorum**

6. The quorum for a meeting of the Board is 4 members or, if the Board consists of less than 4 members, all the members of the Board.

**Functions**

7. The functions of the Board are the management and control of the Fund and any other functions which this Canon or the regulations require to be performed, and does not vest in some other body or person.

**Powers**

8. (1) The Board in performance of the functions vested in it by this Schedule has such powers as –



- (a) are necessarily incidental to or convenient for the due performance of those duties; or
  - (b) are expressly vested in the Board by this Schedule.
- (2) The Board may employ as agents and pay –
- (a) any accountant, actuary, banker, barrister, solicitor, estate agent, fund manager, insurance broker, stock broker or other professional person; or
  - (b) any suitably qualified organisation;
- to perform any function of the Board under the Long Service Leave Canon 2007 and this Schedule.

### **Rules and Regulations**

9. (1) Subject to Part IV of this Schedule the powers of the Board include the power by resolution of the Board to make rules and regulations not inconsistent with this Schedule and necessary or convenient to be made for giving effect to this Schedule including, but without limiting the generality of the foregoing, with respect to –
- (a) the Board's own proceedings records and reports including the procedure for the making of rules and regulations and, without divesting itself of its responsibilities under this Schedule, the appointment of committees of its members and co-option to membership of any such committee;
  - (b) the contracting out to a suitably qualified organisation of the day to day administration of the Fund in accordance with the directions of the Board;
  - (c) the appointment of all necessary officers, definition of their duties and their remuneration (if any);
  - (d) money property investments and audit;
  - (e) actuarial investigations consultation approval and advice;
  - (f) contributors;
  - (g) benefits; and
  - (h) any matters in which under this Schedule the Board has a discretion power or duty.
- (2) Upon making a rule or regulation the Board must cause notice of its terms to be given to the Standing Committee, to the Registrar of every participating

diocese and to the proper officer of every participating organisation.

- (3) On the first day of the first Ordinary Session of General Synod after the making of a rule or regulation a copy of the rule or regulation must be laid before the Synod and it is lawful for the Synod at that session to disallow it, but disallowance by Synod does not invalidate or affect anything done or contracted to be done under a rule or regulation before its disallowance.
- (4) The Standing Committee may disallow a rule or regulation made by the Board at the first meeting of the Standing Committee after notice is given under subsection (2) but the disallowance does not invalidate or affect anything done or contracted to be done under a rule or regulation before its disallowance.
- (5) Upon disallowance by General Synod or the Standing Committee of a rule or regulation made under this Schedule the Standing Committee must cause notice of the disallowance to be given to the Board, to the Registrar of every participating diocese and to the proper officer of every participating organisation.
- (6) Where a rule or resolution is disallowed, any other rules or resolutions made by the Board have effect as if the disallowed rule or resolution had never been made.

#### **Actuarial Advice**

10. No power or duty of the Board which entails actuarial knowledge, calculation or judgment may be exercised without obtaining and considering the advice of the Actuary.

#### **Discretions**

11. Subject only to this Schedule, the Board in exercise of the authorities, powers and discretions vested in it under this Schedule has an absolute discretion and –
  - (a) may exercise all or any of its powers, authorities and discretions from time to time; or
  - (b) (except so far as it may be necessary to give effect to any legal or enforceable rights of any person) may refrain from exercising all or any of its authorities, powers and discretions from time to time or at all.

#### **Declaration of Interest**

12. (1) Every member of the Board who –

- (a) is or becomes in any way, whether directly or indirectly, interested in a contract or proposed contract with the Corporation; or
  - (b) holds an office or possesses property whereby whether directly or indirectly duties or interests might be created in conflict with that member's duties as a member of the Board;
- must as soon as practicable after the relevant facts have come to that member's knowledge declare the facts nature and extent of the interest or conflict at a meeting of the Board.
- (2) That member must not for so long as the interest exists or the conflict is possible vote on any resolution of the Board touching that contract or property or office without the consent of all of the other members of the Board present.
  - (3) The requirements of the preceding paragraphs or sub-sections of this section do not apply in any case where the interest consists only of –
    - (a) an interest in a contract or proposed contract with the Corporation if the interest of the member of the Board may properly be regarded as not being a material interest;
    - (b) that member's interest as a participant; or
    - (c) being an honorary office holder in an organisation or corporation with which the Corporation contracts.

### **Indemnity**

- 13. (1) A person is entitled to be indemnified out of the Fund for any personal liability incurred by that person while acting within the authority conferred by this Schedule upon him or her as a member of the Board or officer or other appointee of the Board unless the personal liability is occasioned by that person's own dishonesty or by his or her wilfully and knowingly being a party to an act resulting in the personal liability.
- (2) In relation to a person mentioned in sub -section 13 (1) the expression "personal liability" means liability for –
  - (a) any of his or her acts, receipts, neglect or default or those of any other Board member, officer or other appointee of the Board;
  - (b) involuntary loss or misapplication of the Fund or of any entitlement payable from the Fund;

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- (c) any loss which results from the insufficiency of any security or from any investment made by the Board in good faith; or
- (d) any loss brought about by a person or organisation employed under section 8 to perform a function of the Board in performing that function.

**Money**

- 14. (1) The Board must collect, and pay promptly into a bank, in the name of the Fund, all money paid to the Fund.
- (2) The Fund must be applied by the Board to the purposes of this Schedule but the expenses of the Board and of the management of the Fund are a first charge on the Fund.
- (3) A member of the Board or officer or other person appointed by the Board is entitled to be reimbursed or to have paid or discharged out of the Fund all expenses properly incurred in the performance of the duties of his or her office.

**Financial Statements and Audit**

- 15. (1) The Board must –
  - (a) keep account of all money received by and disbursed from the Fund and all dealings in connection with that money;
  - (b) keep appropriate records and accounts in pro per order, and make suitable arrangements for their custody and for custody of documents relating to the investments;
  - (c) prepare or have prepared as soon as practicable after the end of each Fund Year financial statements consisting of a balance sheet as at the end of the Fund Year and a statement of income and expenditure for that Fund Year;
  - (d) have the financial statements of the Fund audited by an auditor appointed by the Board; and
  - (e) require a report to be given to the Board by the auditor in respect of each such audit.

**Reporting**

- 16. (1) The Board must once at least in every year have copies of the audited financial statements together with a short report of the Fund's operations for the year provided to –
  - (a) the Standing Committee;

- (b) the Bishop and Registrar of every participating diocese; and
  - (c) the proper officer of every participating organisation.
- (2) A report of the proceedings of the Board since the previous Ordinary Session of General Synod together with a copy of all financial statements and reports under sub-section 16(1) made since that Session must be laid before each Ordinary Session of General Synod.

**Limit of Payment**

17. Notwithstanding anything in this Schedule the Board is not bound to make any payment except out of funds held by it for the purposes of this Schedule.

**Insufficient Funds**

18. In the event of the funds held by the Board at any time being insufficient to make all the payments at that time payable by it under this Schedule the Board, subject to any direction of the Standing Committee, must make such payments as in its opinion are fair and equitable in the circumstances.

**PART III: THE CORPORATION**

**Appointment**

19. So far as the Corporations Act 2001 permits, the Board of the Fund must procure at all times that under the Memorandum and Articles of Association of the Corporation –
- (a) there must be not less than 5 members of the Corporation;
  - (b) except as provided in paragraph 19(a) the number of members of the Corporation always equals the number of members of the Board of the Fund;
  - (c) the members of the Corporation are those persons who from time to time are the members of the Board of the Fund and have consented to be members of the Corporation;
  - (d) only persons who are members of the Corporation are eligible to be directors of the Corporation and all members of the Corporation are directors of the Corporation; and
  - (e) a person who ceases to be a member of the Board of the Fund ceases to be a member of the Corporation.

### **Removal of Members**

20. So far as the Corporations Act 2001 permits, the Board of the Fund must procure at all times that under the Memorandum and Articles of Association of the Corporation a member of the Corporation who –

- (a) is continuously absent from the Commonwealth of Australia for more than 3 months without the consent of the remaining members of the Corporation;
- (b) resigns;
- (c) fails to attend 3 successive meetings of the Directors of the Corporation without leave of the Board of the Corporation;
- (d) becomes bankrupt; or
- (e) in the opinion of the remaining members of the Corporation or a majority of them otherwise becomes incapable or unworthy of acting;

may be removed from office by the remaining members of the Corporation at a meeting of which 14 days notice has been given to that member wherever resident and to all other members of the Corporation for the time being in the Commonwealth of Australia.

### **Powers of Investment and Borrowing**

21. (1) The Corporation acting upon the direction of the Board of the Fund has power –

- (a) to invest the assets of the Fund;
- (b) to vary or realise those investments; and
- (c) to underwrite or sub-underwrite the issue of any investments authorised under this Schedule.

(2) The Corporation acting upon the direction of the Board of the Fund has power from time to time to borrow, or maintain an existing borrowing of money, whether by way of a secured or unsecured loan with a bank or other institution.

### **Duty of Investment**

22. Subject to –

- (a) the direction of the Board of the Fund; or
- (b) the direction (if any) of –
  - (i) General Synod; or
  - (ii) the Standing Committee;

the Corporation must invest such part or the whole of the Fund in such names in such manner and subject to such conditions as the Board of the Fund in its sole discretion determines.

#### **PART IV: THE ACTUARY**

##### **Appointment**

23. The Board must appoint an Actuary with appropriate qualifications and experience.
24. The Actuary holds office for a term of 3 years or such lesser period as is specified by the Board but is eligible for re-appointment for a further term.

##### **Actuarial Responsibilities**

25. (1) The Board must cause actuarial investigations of the affairs of the Fund to be made at such intervals not exceeding 3 years as may be decided by the Board.
- (2) An actuarial report must be given to the Board in relation to each investigation referred to in sub-section 25(1).
- (3) Arising from an actuarial investigation the Board may make, alter or rescind rules or regulations under section 9 relating to benefits payable to participants
- (4) The Actuary must give advice to the Board upon the request of the Board and may give advice at other times.

#### **PART V: CONTRIBUTIONS**

##### **Additional Participating Dioceses**

26. Where the synod of a diocese which is not then a participating diocese adopts this Schedule, the Board may admit the diocese to be a participating diocese upon such terms and conditions (including terms as to retrospectivity) as the Board with the advice of the Actuary may determine.

##### **Participating Organisation**

27. (1) An organisation which engages 1 or more members of the clergy and agrees to the terms and conditions of participation in the scheme of this Schedule, upon application to and approval by the Board, becomes a participating organisation.
- (2) A participating organisation may make contributions to the Fund on the account of any participant. Contributions must be of the amount and made at the times which would be appropriate if that participant were rendering qualifying service in a participating diocese.

**Amount of Contributions**

28. Subject to any direction of the General Synod or of the Standing Committee the rate of annual contribution for the purpose of this Schedule –
- (a) must be set by the Board; and
  - (b) applies from the following first day of January.

**Responsibility for Contributions**

29. (1) This section applies to a parish institution or organisation (not being a participating organisation) in a participating diocese which is responsible for the payment of the stipend or salary of any participant rendering qualifying service in that diocese, unless the diocese determines to the contrary.
- (2) Where this section applies the parish institution or organisation must pay to the proper officer of the diocese in respect of each day during which it is responsible for the payment of the stipend or salary of the participant an amount equal to a 365th part of the annual contribution fixed under section 28.

**Payment of Contributions to Diocese**

30. Each amount payable to a diocese under section 29 is payable at such times and in such manner as the diocese prescribes.

**Payment of Contributions to the Fund**

31. (1) Each participating diocese or participating organisation must pay a contribution to the Fund within 14 days of the last day of the months of March, June, September and December in each year in respect of each participant receiving stipend or salary as a member of that diocese or organisation who has rendered qualifying service in that diocese or organisation during the whole or any part of the quarter ending on that day. The contribution must be so much of the annual contribution fixed under section 28 of this Schedule as is apportionable to the number of completed days of the member's qualifying service so rendered during the quarter.
- (2) In the event of payments not being made within the time limit in sub-section 31(1) interest on the late payment calculated on a daily basis at a rate set by the Board from time to time may be charged at the discretion of the Board.



**PART VI: ENTITLEMENTS**

**General**

32. Subject to this scheme every participant serving in a participating diocese or with a participating organisation is entitled to long service leave on his or her ordinary stipend or salary.

**Amount of Long Service Leave**

33. (1) The amount of Long Service leave entitlement for a participant is –
- (a) on completion of 10 years of qualifying service an amount of long service leave calculated;
    - (i) at the rate of 10 weeks for 10 years qualifying service in respect of each year of qualifying service prior to the Commencement Date; and
    - (ii) at the rate of 13 weeks for 10 years qualifying service in respect of each year of qualifying service from and after the Commencement Date.
  - (b) subject to sub-clause 35(2), on completion of each subsequent year of qualifying service an amount of long service leave calculated;
    - (i) at the rate of 1 week for each year of qualifying service in respect of each year of qualifying service prior to the Commencement Date; and
    - (ii) at the rate of 1.3 weeks for each year of qualifying service in respect to qualifying service from and after the Commencement Date.
  - (c) on completion of a period of qualifying service fixed by the Board under sub section (3), a period of leave fixed by the Board under sub-section (3).
- (2) Sub-section (3) applies where in the opinion of the Board –
- (a) the relevant circumstances of a participant are abnormal; and
  - (b) it would be to the disadvantage of the participant for sub-section (3) not to apply.
- (3) Where this sub-section applies the Board may fix –

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- (a) (i) a period of qualifying service of less than 10 years where the participant has not completed 10 years qualifying service; or
  - (ii) a period of less than 5 years further qualifying service where the participant has completed 10 years qualifying service and part only of any subsequent period of 5 years qualifying service; and
  - (b) a period of long service leave to which the participant is entitled upon completion of the period fixed under paragraph 33(3)(a).
- (4) Where long service leave has been taken by a participant the participant's long service leave entitlement is reduced accordingly.
- (5) An entitlement under this section only arises in respect of completed years of qualifying service.

**Qualifying Service**

34. (1) Qualifying service means –
- (a) service at any time whether before or after Parts II and III of the Initial Canon came into force –
    - (i) in a diocese the synod of which resolved before or within 12 months after the coming into force of those Parts that the diocese participate in the scheme of the Initial Canon; and
    - (ii) in that part of the Diocese of Carpentaria which became the Diocese of the Northern Territory by virtue of the Diocese of the Northern Territory Formation Canon of 1966;
  - (b) service at any time after Parts II and III of the Initial Canon came into force -
    - (i) in any other diocese after that diocese has become a participating diocese; or
    - (ii) in a participating organisation after that organisation has become a participating organisation.
- (2) Notwithstanding any other provisions of this Schedule, in calculating the length of qualifying service of any participant the following must not be taken into account –
- (a) any excess over 15 years service rendered before Parts II and III of the Initial Canon came into force;

- (b) any service rendered after Parts II and III of the Initial Canon and the former Canon came into force in respect of which –
    - (i) the contributions mentioned in Part V have not been paid; or
    - (ii) where that service is missionary service, in respect of which there has not been paid to the Fund a sum which corresponds to the aggregate of the contributions which would have been payable in respect of a like period of service in a participating diocese;
  - (c) any period of service in respect of which leave has been taken or payment made under the provisions of the Initial Canon, the Former Canon, this Schedule or of any other long service leave scheme,
  - (d) any period of service which is taken into account under any Act of any Parliament award or industrial agreement in calculating an entitlement to leave in the nature of long service leave or payment in lieu of such leave whether the Act award or industrial agreement is made before or after any part of this Schedule came into force. This paragraph does not apply however in calculating the length of qualifying service of any participant who has made application under subsection 34(3).
- (3) (a) When on a particular date a participant has –
- (i) begun to render qualifying service; or
  - (ii) resumed rendering qualifying service;
- the participant may make application to the Board to be deemed to have begun or resumed rendering that service on an earlier date.
- (b) The Board, acting upon actuarial advice, may determine a date from which and conditions (including conditions as to payment of contributions in respect of the period between the last mentioned date in paragraph 34(3)(a) and the first mentioned date) subject to which the applicant under paragraph 34(3)(a) is deemed to have begun or resumed rendering qualifying service as the case may be.
- (c) In making a determination under paragraph 34(3)(b) the Board –

- (i) must take into account without further contribution any period of less than 10 years qualifying service which ended less than 5 years before the date of the determination; and
  - (ii) may take into account any period of less than 10 years qualifying service which ended 5 or more years before the date of the determination;
- in respect of which the participant has not under the Initial Canon, the Former Canon or this Schedule taken leave or received payment.
- (d) The Board is not required to maintain a record of qualifying service for more than five years after the qualifying service ceases to be rendered by reason only of -
    - (i) anything in this sub-section; or
    - (ii) the qualifying service having been rendered (wholly or partly) before the commencement of this Schedule.
- Where any such record has existed, but no longer exists, the Board –
- (iii) may still determine a date under paragraph (b); and
  - (iv) if it sees fit may at any time reconstruct the record to its satisfaction and rely on the reconstructed record.

#### **Periods of Leave**

- 35. (1) Leave may be granted and taken in 1 continuous period or if the participant and the diocese or participating organisation so agree in separate periods as follows –
  - (a) where the amount of the leave exceeds 5 weeks but does not exceed 13 weeks, in 2 separate periods; or
  - (b) where the amount of the leave exceeds 13 weeks, in 2 or 3 separate periods.
- (2) A participant is not entitled to take less than 3 weeks leave in any one continuous period.

#### **Annual Holidays Excluded**

- 36. Long service leave taken under this Schedule is exclusive of annual holidays but is inclusive of all other days off occurring during the leave.

### **When Leave to be Taken**

37. Where a participant has become entitled to long service leave under this Schedule the leave must be given and the participant must take the leave –
- (a) where the participant is serving in a participating diocese, as soon as practicable having regard to the needs of the diocese in which the participant is serving except that after an entitlement to leave has accrued the diocese and the participant may agree that the taking of the leave be postponed until an agreed date; or
  - (b) where the participant is not serving in a participating diocese or is serving in a participating organisation, as soon as practicable having regard to the needs of the Church or the participating organisation.

### **Priority as Between Participants**

38. Participating dioceses and participating organisations determine the order in which participants entitled to long service leave take that leave but, in determining that order, ordinarily must give priority to those who have rendered the longest qualifying service.

### **Notice of Leave**

39. Every participating diocese or participating organisation must give to each participant, unless that participant otherwise agrees, at least 3 months' notice of the date from which it is proposed that the participant's long service leave shall be given and taken.

### **PART VII: NATURE OF SERVICE**

40. (1) Every participating diocese or participating organisation must advise the Board if a participant begins or concludes part-time service.
- (2) Where a participating diocese or participating organisation advises the Board in accordance with sub-section 40 (1) they shall advise the Board of the equivalence of that service to full-time service in that participating diocese or participating organisation.
- (3) Any payment or apportioned payment made by the Board in relation to a participant on part-time service shall be pro-rated in accordance with the advice given by the participating diocese or participating organisation in accordance with sub-section 40 (2).

**PART VIII: PAYMENT**

**Notional Stipend**

41. (1) The Standing Committee acting upon the advice of the Board may from time to time determine –
- (a) a notional annual stipend in respect of all participants expressed as a sum per annum; or
  - (b) a notional annual stipend as so expressed in respect of each of two or more categories of participants determined by the Standing Committee on the advice of the Board;
- effective from the next first day of January.

**Sabbatical Allowance**

42. (1) In respect of each day of long service leave actually taken the rate at which sabbatical allowance is payable is:
- (a) subject to paragraph 42(1)(b) a rate per day equal to 35.5% of a 365th part of the notional stipend pro-rated for the nature of service; or
  - (b) if the Standing Committee, acting on the advice of the Board, fixes another rate per day, the rate so fixed for the time being.

**Normal Payment**

43. (1) Where a participant whose salary or ordinary stipend is paid by a participating diocese, by a parish, institution or organisation in a participating diocese or by a participating organisation, enters upon a period of long service leave –
- (a) the participant must be paid his or her salary or ordinary stipend in respect of that period of leave either –
    - (i) in a single payment when the participant enters upon the period of leave; or
    - (ii) at the time or times at which the participant's salary or stipend would have been paid if he or she had not taken leave.
  - (b) (i) the Board must pay to the diocese in which the participant was serving or the participating organisation by which the participant was employed immediately before he or she entered upon the leave a sum equal to so much of the notional annual stipend as is apportionable to that

- period of leave and pro-rated for the nature of service.
- (ii) where the salary or ordinary stipend of the participant is not paid by the diocese itself the diocese must remit that sum to the parish institution or organisation by which such salary or stipend is paid; and
  - (c) the Board in addition must pay to the diocese or participating organisation a sabbatical allowance in respect of that period of leave and pro-rated for the nature of service and that sabbatical allowance must be paid in full to the participant.
- (2) Upon a payment being made by the Board under this section the liability of the Fund in respect of the participant for whose benefit it is paid is discharged to the extent of that payment.

#### **Payment Direct to Participant**

44. (1) Where a participant whose ordinary salary or stipend is not paid by a participating diocese, by a parish institution or organisation in a participating diocese or by a participating organisation enters upon a period of long service leave the Board must pay directly to the participant so much of the notional annual stipend as is apportionable to the period of that leave and pro-rated for the nature of service and a corresponding sabbatical allowance.
- (2) The Board may make the payment under sub-section 44(1) conditional upon the participant entering into such an agreement with it relating to the acceptance by the participant of other payments in the nature of stipend salary or wages or the like as the Board deems proper.

#### **Payment in lieu on Death**

45. (1) When the qualifying service of a participant terminates by reason of the participant's death then an amount for each completed year of service is to be paid, equal to 1 week for each year of qualifying service performed prior to the Commencement Date and 1.3 weeks for each year of qualifying service performed on or after the Commencement Date of the notional stipend current at the date of the participant's death together with a proportionate payment for any incomplete year of qualifying service rendered.
- (2) The amount payable under sub-section 45(1) –
- (a) is not to include the sabbatical allowance; and

- (b) is payable to such person or persons as the Board determines.

**Payment in Lieu on Resignation or Retirement**

- 46. (1) When the qualifying service of a participant terminates other than by reason of the participant's death, and –
  - (a) the participant has completed at least 5 years qualifying service; and
  - (b) sub-section 33(3) does not apply;then the participant is to be paid an amount equal to one week for each year of qualifying service performed prior to the Commencement Date and 1.3 weeks for each year of qualifying service on or after the Commencement Date of the then current notional stipend and pro-rated for the nature of service together with a proportionate payment for any incomplete year of qualifying service rendered and pro-rated for the nature of service.
- (2) The amount payable under sub-section 46(1) is not to include a sabbatical allowance.

**Payment to Another Fund**

- 47. (1) Where the participating diocese or organisation which contributes in respect of a participant gives notice to the Board under this section then at the expiration of three months from the date of giving notice the Board is empowered to exercise its discretion under sub-section 47(2) as if the participant had resigned at the expiration of the period of three months.
- (2) Where a participant resigns and the Board satisfies itself –
  - (a) that the participant intends to continue or resume employment under conditions of employment where contributions are to be made to another fund or organisation whose constitution and rules for the payment of benefits are similar to those of the Fund ("the other Fund"); and
  - (b) that employment is, or will become, available to the participant to take up;the Board in its discretion, exercisable at any time before payment is made under this Part, may decide that this section applies, whether or not the participant has completed 10 years of qualifying service.
- (3) If the Board decides that this section applies section 46 does not.



- (4) Where this section applies and –
  - (a) the participant has completed 10 years or more of qualifying service; or
  - (b) the participant had not completed 10 years of qualifying service but has completed a period of less than 10 years qualifying service fixed under sub-section 33 (3);the Board must pay the amount payable under this section either to the other fund or to the participant, as the Board sees fit.
- (5) Where this section applies but the participant has not completed 10 years or more of qualifying service or a period of less than 10 years qualifying service fixed under sub-section 33 (3), the Board at its sole discretion may fix the participant's completed service as qualifying service under sub -section 33 (3), and must pay the amount payable under this section to the other fund.
- (6) The amount payable under this section is an amount equal to one week for each year of qualifying service performed prior to the Commencement Date and 1.3 weeks for each year of qualifying service on or after the Commencement D ate of the then current notional stipend and pro -rated for the nature of service together with a proportionate payment for any incomplete year of qualifying service rendered and pro-rated for the nature of service.
- (7) The Board may at any time before payment is made under this section revoke its decision, in which case this section no longer applies and section 46 once again applies.

**PART IX: GENERAL**

**Winding Up**

- 48. If the Fund is wound up for any reason and there remains, after satisfaction of, or provision for, its debts and liabilities (which shall be determined subject to section 10 where applicable), any property or money that property or money shall be given or transferred to any one or more Eligible Charities the identity or identities of which shall be determined by the Board with the consent of the Standing Committee of General Synod.

**Annexure 4**

**Protection of the Environment Canon 2007**

**A Canon to assist in the protection of the environment**

The General Synod prescribes as follows:

**Preamble**

- A. This Church acknowledges God's sovereignty over his creation through the Lord Jesus Christ.
- B. In Genesis it says that "The Lord God took the man and put him in the garden of Eden to till it and keep it." In 1990 the Anglican Consultative Council gave modern form to this task when it declared that one of the five marks of the mission of the Church was "to strive to safeguard the integrity of creation, and to sustain and renew the life of the earth".
- C. This Canon gives form to this mark of mission in the life of the Anglican Church of Australia.
- D. This Church recognises the importance of the place of creation in the history of salvation.
- E. This Church acknowledges the custodianship of the indigenous peoples of this land.
- F. This Church recognizes that climate change is a most serious threat to the lives of the present and future generations. Accordingly, this Canon seeks to reduce the release of greenhouse gases by this Church and its agencies.

**Short title and principal canon**

1. This Canon may be cited as the *Protection of the Environment Canon 2007*.

**Mechanisms to assist in protecting the environment**

2. (1) Every diocese which adopts this Canon undertakes to reduce its environmental footprint by increasing the water and energy efficiency of its current facilities and operations and by ensuring that environmental sustainability is an essential consideration in the development of any new facilities and operations, with a view to ensuring that the diocese minimalises its contribution to the mean global surface temperature rise.
- (2) Every diocese which adopts this Canon undertakes to establish such procedures and process such as an

environment commission, or similar body as are necessary to assist the diocese and its agencies to:

- (a) give leadership to the Church and its people in the way in which they can care for the environment,
- (b) use the resources of God's creation appropriately and to consider and act responsibly about the effect of human activity on God's creation,
- (c) facilitate and encourage the education of Church members and others about the need to care for the environment, use the resources of God's creation properly and act responsibly about the effect of human activity on God's creation, and,
- (d) advise and update the diocese on the targets needed to meet the commitment made in sub-section (1);
- (e) urge its people to pray in regard to these matters.

### **Reporting**

- 3. (1) Every diocese which adopts this Canon undertakes to report to each ordinary session of the General Synod as to its progress in reducing its environmental footprint in order to reach the undertaking made in accordance with sub-section (1) of section 2.
- (2) Any report will outline the targets that were set, the achievements made, and difficulties encountered.

### **Adoption of Canon by Diocese**

- 4. The provisions of this Canon affect the order and good government of the Church within a diocese and the Canon shall not come into force in any diocese unless and until the diocese by ordinance adopts the Canon.

## Special Tribunal Canon 2007

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.

The General Synod prescribes as follows:

### PART I – PRELIMINARY

1. This Canon may be cited as the “Special Tribunal Canon 2007”.
2. In this Canon, unless the context otherwise requires:
  - “**Bishop**” means a bishop referred to in section 56(6) of the Constitution; and
  - “**bishop**” means a person in bishop’s orders.
  - “**Church**” means the Anglican Church of Australia;
  - “**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 as may be specified by Canon;
  - “**Director**” means the Director of the Episcopal Standards Commission appointed under Part 3;
  - “**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;
  - “**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 who is not a bishop;
  - “**protocol**” means the protocol approved under Part 3 of the Episcopal Standards Canon 2004;
  - “**relevant Metropolitan**”, means:
    - (a) in relation to the bishop of a diocese:

- (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
  - (iii) if the bishop is the Metropolitan but not the Primate, the Primate; or
  - (iv) if the 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
- (b) in relation to any other Bishop, the Primate;
- “respondent”** means a bishop whose alleged conduct or omission is the subject of a complaint;
- “Tribunal”** means the Special Tribunal.

**PART 2 – EPISCOPAL STANDARDS COMMISSION**

- 3. There shall be an Episcopal Standards Commission
- 4.
  - (1) The ESC shall have at least three members.
  - (2) The membership of the ESC shall be constituted so as collectively to provide
    - (a) experience in law;
    - (b) a person in bishops' orders; and
    - (c) experience and appropriate professional qualifications in child protection, social work or counselling.
  - (3) The ESC so far as is reasonably practicable shall have an equal number of men and women.
- 5.
  - (1) The ESC so far as is reasonably practicable shall have an equal number of men and women.
  - (2) The members of the ESC shall hold office on such terms and conditions as may be determined by the Standing Committee from time to time.
  - (3) For the purposes of this section a reference to a chancellor includes a deputy chancellor where such person is able to act in accordance with any rules or custom applicable in that diocese.
  - (4) The consent referred to in subsection (1) may be given by facsimile, email or by any electronic means that can be reproduced in written or printed form.

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6.
  - (1) The convenor of the ESC shall be 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 shall be as determined by the ESC.
  - (4) A majority of the members shall constitute 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 shall act in all things as expeditiously as possible.
7. 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.
8. Subject to the provisions of this Canon, the Director, a member of the ESC and a person employed or engaged on work related to the affairs of the ESC must not divulge information that comes to his or her knowledge by virtue of that office or position except:
  - (a) in the course of carrying out the duties of that office or position;
  - (b) as may be authorised by or under this or another Canon;
  - (c) in any proceedings before the Special Tribunal;
  - (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.
9. Subject to section 51, the ESC may release to the public such material as it may determine with respect to any complaint.
10.
  - (1) Without disclosing the identity of any complainant or the respondent, the ESC shall report annually to the Standing Committee on its activities for that calendar year.

- (2) Notwithstanding subsection (1), the report of the ESC pursuant to that subsection may identify a respondent who has been exonerated from an allegation the subject of a complaint or who has been the subject of a determination or recommendation by the Tribunal.
  - (3) Subject to sub-section (4) the ESC shall, in respect of every matter with which it is dealing, report either orally or in writing to the Primate with such frequency and as fully as the Primate may reasonably require.
  - (4) If the matter relates to the conduct of the Primate, such reports shall be made to and at the direction of the senior Metropolitan at the time in Australia who is not the Primate.
- 11.
  - (1) Subject to sub-section (2), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its powers or functions under this Canon to any person.
  - (2) The ESC cannot delegate:
    - (a) its powers under subsection (1);
    - (b) its powers under section 12(1)(g); or
    - (c) its powers under section 22.
  - (3) A delegation under this section must be made by instrument in writing signed by a member of the ESC.
- 12.
  - (1) Subject to the provisions of this Canon the ESC has the following powers and duties:
    - (a) to receive complaints;
    - (b) to investigate the subject matter of complaint in a timely and appropriate manner;
    - (c) where appropriate to arrange for the conciliation and mediation of any complaint;
    - (d) 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 its 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;
    - (e) to maintain proper records of all complaints received and of action taken in relation to such complaints;

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- (f) subject to any limit imposed by the Standing Committee to authorise such expenditure on behalf of the General Synod as may be necessary to implement, in a particular case, the provisions of this Canon;
  - (g) to promote a charge against a Bishop before the Tribunal.
- (2) In exercising its powers under this Canon the ESC may, where it considers it to be appropriate, adopt the provisions of the protocol.
- 13. (1) The ESC shall only take action in respect of a complaint alleging an offence mentioned in the First Schedule where the complaint relates to conduct or an omission alleged to have occurred not more than twelve calendar months prior to the date on which the complaint is received by the ESC.
- (2) The ESC shall only take action in respect of a complaint alleging an offence mentioned in the First Schedule where the complaint relates to conduct or an omission alleged to have occurred not more than twelve calendar months prior to the date on which the complaint is received by the ESC.

**PART 3 – DIRECTOR OF EPISCOPAL STANDARDS COMMISSION**

- 14. (1) There shall be a Director of the Episcopal Standards Commission.
- (2) There shall be a Director of the Episcopal Standards Commission.
- 15. The Director shall have the following 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 shall otherwise determine;
  - (c) such other functions and duties as may be prescribed by this or any other Canon or as may be determined by the Standing Committee or the ESC.
- 16. The Director may act in a corresponding capacity for a diocese either generally or for particular case or matter.

**PART 4 –COMPLAINTS**

- 17. A person may make a complaint against a Bishop by writing signed by the person making the complaint.



18. Subject to this Canon, when the ESC receives a complaint it shall investigate the allegations contained in the complaint.
19. The ESC may refrain from further investigation of the allegations if:
  - (a) in its opinion, the allegations are vexatious or misconceived, or their subject matter is trivial;
  - (b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
  - (c) the person making the complaint has failed, when requested by the ESC, to provide further particulars or to verify the allegations by statutory declaration; or
  - (d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation.
20. For the purpose of an investigation the ESC or an investigator shall endeavour to obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or desirable.
21.
  - (1) The ESC must by notice in writing allow the respondent to provide a detailed report to the ESC within the time specified in the notice in relation to any matter relevant to the investigation, and must provide a summary of the complaint including the substance of the allegations and the name of the complainant.
  - (2) If a respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.
22. At any time after the commencement of an investigation into a complaint against a Bishop under this Part the ESC may:
  - (a) if it considers on reasonable grounds that the Bishop may be incapable, report the matter in writing to the relevant Metropolitan, and such report shall be 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 pursuant to that section;
  - (b) subject to section 43, institute proceedings by way of charge against a bishop before the Tribunal; or

- (c) in the event that the bishop whose conduct is under investigation ceases to be a Bishop, refer the matter, together with such information as it shall have received, to the bishop of the diocese in which the former Bishop then resides.
- 23. (1) The fact that the subject matter of a complaint may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in section 22 in respect of the subject matter of the complaint.
  - (2) Any term of settlement or resolution referred to in sub-section (1) which purports to prevent or to limit the institution of proceedings by way of charge against a bishop shall be of no effect.
  - (3) Proceedings shall not be instituted or maintained in the Tribunal where the bishop concerned has relinquished or has been deposed from Holy Orders in accordance with the Holy Orders, Relinquishment and Deposition Canon 2004.
- 24. If:
  - (a) following the receipt of a complaint, the ESC, under section 19, refrains from further investigation of the allegations contained in the complaint;
  - (b) the ESC does not arrange for the conciliation and mediation of the complaint, or
  - (c) following an investigation, under this Part, of the allegations contained in a complaint, the ESC does not bring a charge, under section 43, against the bishop in respect of whom the complaint is made,

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

**PART 5 – THE SPECIAL TRIBUNAL**

- 25. (1) The members of the Tribunal shall be appointed from a panel comprising:
  - (a) A senior presidential member and another presidential member each of whom is qualified to be a lay member of the Appellate Tribunal;
  - (b) three Bishops; and
  - (c) three priests of at least seven years' standing;

- elected by General Synod in accordance with any Rule of General Synod for the conduct of elections.
- (2) In the event that a presidential member is nominated for election as the senior presidential member or that an election is otherwise required for the two presidential members, an election for both presidential members shall be held at the same time and the person with the highest number of votes shall be the senior presidential member and the person with the next highest number of votes shall be the other presidential member.
26. (1) Subject to sub-section (2), a member of the panel shall cease to hold office upon:
- (a) death;
  - (b) resignation;
  - (c) declaration by any competent court that the member is incapable of managing his or her affairs;
  - (d) ceasing to reside permanently in Australia;
  - (e) conviction or finding of guilt in any court of any offence punishable by imprisonment;
  - (f) in the case of a Bishop, ceasing to be a Bishop or on becoming the Primate;
  - (g) in the case of a priest, on becoming a bishop; and
  - (h) in any event at the commencement of the ordinary session of General Synod which shall take place next after the member attains the age of sixty-nine years.
- (2) A member of the panel who is a member of the Tribunal for particular proceedings of the Tribunal shall continue to hold office until the completion of the proceedings notwithstanding that the member may cease to be a Bishop or may otherwise cease to be a member of the panel by virtue of age.
27. Any Bishop who vacates office upon ceasing to be a Bishop, having accepted appointment to a different office of Bishop, shall, upon installation as Bishop in the different office, be automatically re-appointed to the panel or the Tribunal as the case may be.
28. If any 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 shall cause the

General Secretary to notify the members of the General Synod that such vacancy is to be filled, to invite the submission of names of candidates for nomination, and to notify them of the date fixed by the Primate, being a date not less than six weeks after posting such notification, by which names should be submitted. If no more names are received than the number of vacant positions to be filled, the General Secretary shall declare the persons named to be elected to the panel. Otherwise, the General Secretary shall conduct a postal ballot of the members of General Synod to determine the person or persons to be elected, such ballot to 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 shall 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. Upon the Secretary declaring a person to be elected to the panel, the person or persons shall become a member or members of the panel.

29. Any vacancy not filled pursuant to section 27 or section 28 shall be filled at the next ordinary session of the General Synod by the election by the General Synod of a person qualified to fill the vacancy.
30. The members of the panel to be convened for any sitting of the Tribunal shall be appointed by the senior presidential member or, if he or she is unwilling or unable to act, or if there is a vacancy in the office of senior presidential member, by the other presidential member.
31.
  - (1) The Rules of the Tribunal made under this Part 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.
32. 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.
33. An act or proceeding of the Tribunal is not invalid by reason only of a vacancy in its membership or the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member of the panel or the Tribunal, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

34. The Registrar of the Tribunal shall be the General Secretary of the General Synod.
35.
  - (1) The place and time of sitting of the Tribunal shall be as determined by the President of the Tribunal.
  - (2) 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 shall prevail.
  - (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.
  - (4) 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.
  - (5) Without limiting the meaning and effect of sub-section (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, but must permit the respondent and his representative (if any) opportunity to adequately cross-examine each witness
  - (6) 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.
36. The Tribunal must give 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.
37. 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
38. A decision of the Tribunal is the decision of a majority of the Tribunal.

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39. At any time during the course of a hearing the Tribunal may, if it sees fit, obtain the opinion of the Board of Assessors of the Appellate Tribunal.
40. At any time during the course of a hearing the Tribunal may, if it sees fit, obtain the opinion of the Board of Assessors of the Appellate Tribunal.
41. (1) The Tribunal has no power to award costs of any proceedings before it.
- (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.
- (3) The Standing Committee may grant legal assistance to the bishop on such terms and subject to such conditions as it shall determine.
42. (1) The presidential members of the panel may make rules of the Tribunal in relation to the practice and procedure of the Tribunal.
- (2) Subject to this Canon and the relevant rules, the practice and procedure of the Tribunal will be as directed by the President of the Tribunal.

**PART 6 – PROMOTION OF A CHARGE BEFORE  
THE SPECIAL TRIBUNAL**

43. (1) A charge against a bishop in the Tribunal may be brought:
- (a) by the ESC;
- (b) by another Bishop; or
- (c) in respect of a Bishop holding office or a licence in a diocese, in accordance with the provisions of an ordinance of the synod of that diocese.
- (2) The synod of a diocese may by ordinance declare that paragraph (a) of subsection (1) shall have no effect in respect of the Bishop of that diocese, in which case paragraph (a) of subsection (1) will not apply to that Bishop.
- (3) A declaration under subsection (2) –
- (a) shall not affect any proceedings in respect of a charge brought before such ordinance takes effect; and
- (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) In respect of a charge brought pursuant to paragraph (c) of subsection (1) against the Bishop of a diocese in respect of whom there is in force a declaration under subsection (2), the General Synod shall not be responsible for the costs of bringing such a charge.
- (5) In respect of a charge brought pursuant to –
  - (a) paragraph (b) of subsection (1), or
  - (b) paragraph (c) of subsection (1) where there is no declaration under subsection (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 will indemnify such person or body accordingly.

44. A charge against a Bishop must:
- (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.
- (2) A signed copy of the charge shall 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".
- (3) A charge, once instituted, may be amended or withdrawn by the person or body which instituted it.
- (4) 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.

**PART 7 – PROCEEDINGS BEFORE THE SPECIAL TRIBUNAL**

45. (1) Upon lodgement of a charge with the Registrar, the presidential member referred to in section 30 shall as soon as possible appoint the members of the Tribunal for the purpose of hearing the charge.
- (2) The President of the Tribunal shall thereupon cause to be convened a directions hearing presided over by a member of the Tribunal.

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- (3) The person or body bringing the charge and the bishop shall comply with the rules of the Tribunal and with any directions given by a member of the Tribunal at a directions hearing.
- 46.
  - (1) The Tribunal shall deal with any charge as expeditiously as possible.
  - (2) The Tribunal may, if it sees fit, proceed with the hearing of a charge notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the charge being conducted by the ESC and notwithstanding that there may be criminal or other proceedings being taken against the bishop.
  - (3) Subject to section 23(3) the Tribunal may make a recommendation notwithstanding that the bishop the subject of the charge has ceased, after lodgement of the charge with the Registrar, to be a Bishop.
- 47.
  - (1) Subject to sub-section (2), the Tribunal must give the following persons reasonable notice of the time and place of a sitting of the Tribunal:
    - (a) the person or body bringing the charge; and
    - (b) the respondent; and
    - (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.
- 48.
  - (1) Subject to sub-section (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:
    - (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
    - (c) officers of the Tribunal or persons assisting the Tribunal; or
    - (d) the person or members of the body bringing the charge or their representatives;not be present in the room while the Tribunal is sitting.



49. The Tribunal may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.
50. In making any determination the Tribunal shall take into account:
- (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.
51. (1) 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.
- (2) 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 shall direct or approve.
52. A recommendation of the Tribunal shall be entered in the National Register together with a record of any action taken consequent upon the recommendation.
53. Any appeal to the Appellate Tribunal from the Tribunal, other than in respect of a breach of faith, ritual or ceremonial, shall be by leave of the Appellate Tribunal.

**PART 8 – DEPOSITION FROM ORDERS**

54. (1) The deposition of a bishop from Holy Orders by the Primate pursuant to the recommendation of the Tribunal shall 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.
- (2) The Primate must forthwith:
- (a) register the Instrument in the Registry of the Primate;
  - (b) deliver a copy of the Instrument to the bishop of the diocese or dioceses in which the former

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- Bishop who is the subject of the Instrument was ordained priest and bishop;
- (c) if the former Bishop 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.

**PART 9 – TRANSITIONAL**

55. The persons named hereunder shall hold the respective offices until their successors are appointed or elected in accordance with the provisions of this Canon:

Episcopal Standards Commission

Convenor: Mr Geoffrey Spring

Members: Ms Margaret Fuller, OAM; The Right Rev'd Ronald Stone.

Director of the Episcopal Standards Commission

Ms Rena Sofroniou

Special Tribunal Panel

Senior Presidential Member: Sir Robert Woods, CBE.

Presidential Member: The Hon Justice Debra Mullins

Diocesan Bishops: The Most Rev'd Jeffrey Driver

The Most Rev'd Philip Freier

The Right Rev'd John Harrower

Priests: The Rev'd Canon Dr Colleen O'Reilly

The Ven Dr Chris R Jones

The Very Rev'd Andrew J Sempell

**FIRST SCHEDULE**

(Section 1 3(1))

- 1 Any breach of faith, ritual or ceremonial;
- 2 Drunkenness;
- 3 Wilful failure to pay just debts;
- 4 Wilful violation of the Constitution or of the Canons made thereunder or of the Ordinances of Provincial Synod or Diocesan Synod.

**SECOND SCHEDULE**

TO

I, ..... PRIMATE/ARCHBISHOP of .....  
do hereby 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

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**Annexure 6**

**Special Tribunal Canon Repeal Canon 2007**

The General Synod prescribes as follows:

1. This Canon may be cited as the "Special Tribunal Canon Repeal Canon 2007".
2. The Special Tribunal Canon 2004 is repealed.

Annexure 7

**Constitution Alteration (Chapter IX) Canon  
Amendment Canon 2007**

The General Synod prescribes as follows:

1. This Canon may be cited as the "Constitution Alteration (Chapter IX) Canon Amendment Canon 2007".
2. Section 2 of the Constitution Alteration (Chapter IX) Canon 2004 is amended:
  - (a) By deleting the word "A" at the commencement of subsection (2) of proposed section 63A of the Constitution and by inserting in lieu thereof the expression "Subject to this section a";
  - (b) By adding at the end of paragraph (b) of subsection (3) of proposed section 63A of the Constitution the following:

"provided that the power to suspend the bishop of a diocese may only be exercised with the concurrence of the Diocesan Council of the diocese meeting when the bishop is not present";
  - (c) By adding at the end of subsection (4) of proposed section 63A of the Constitution the following:

"provided that in the case of the bishop of a diocese such a board or body may only make a recommendation to the Primate or if the Primate is a party to the proceedings or is disqualified from acting or considers that he should disqualify himself from acting, the recommendation shall be made to the metropolitan or bishop who would exercise the authorities powers rights and duties of the Primate if the office were vacant".
  - (d) By adding at the end of subsection (7) of proposed section 63A of the Constitution the following:

"created by canon of General Synod";
  - (e) By deleting from subsection (8) the words "shall only lie by leave of the Review Tribunal and" and by inserting at the end thereof the words "and shall be limited to such grounds as may be specified by Canon of General Synod".

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- (f) By adding after subsection (9) the following new subsection and by renumbering subsection (10) subsection (11):

“(10) In respect of any recommendation or determination of a board or body referred to in this section created by ordinance of a diocesan synod, any appeal or review shall be subject to and in accordance with the provisions of an ordinance of the diocesan synod.”

**Annexure 8**

**Constitution Amendment (Diocesan Council)  
Canon 2007**

**A canon to amend section 74(1) of the Constitution**

The General Synod prescribes as follows:

**Short title**

1. This Canon may be cited as the Constitution Amendment (Diocesan Council) Canon 2007.

**Definition of Diocesan Council**

2. In section 74(1) of the constitution, in the definition of "Diocesan Council" for "means" substitute "includes".

**Annexure 9**

**Constitution Amendment (Provinces and Dioceses) Canon 2007**

**Canon to amend the Constitution with respect to provinces and dioceses**

The General Synod prescribes as follows:

**Short title**

1. This Canon may be cited as the "*Constitution Amendment (Provinces and Dioceses) Canon 2007*".

**Provinces**

2. The Constitution is amended by adding new sections 38A and 38B –

“38A Subject to section 38B, a province shall comprise a Metropolitan Diocese and one or more other dioceses.

38B A province may consist of a Metropolitan Diocese only, and for so long as that is the case, the provincial synod, the provincial council and the constitution of the province remain suspended and all powers of the provincial synod vest in the synod of the Metropolitan Diocese.”

**Emergencies**

3. The Constitution is further amended by inserting after section 45 the following new section 45A –

“45A. A diocesan Bishop, or if there be none in office, the administrator of a diocese, with the concurrence of the Diocesan Council and the approval of the Metropolitan and the Primate, may make such administrative arrangements for the emergency administration of that diocese as the bishop or administrator as the case may be considers appropriate provided that no such arrangement shall last longer than the termination of the next ordinary session of the General Synod unless such session by resolution authorizes its continuation.”



**Ancillary Amendments**

4. The Constitution is further amended as follows –
  - (a) By amending section 52(2)
    - (i) by substituting the words “Metropolitan Diocese” for the words “metropolitan see”; and
    - (ii) by deleting the words “or to have associated with it three dioceses.”
  - (b) By adding to section 74(1) in the appropriate alphabetical order –

“Metropolitan Diocese” means each of the dioceses of Sydney, Melbourne, Brisbane, Perth and Adelaide.

**Annexure 10**

**Constitution Amendment (Section 10) Canon 2007**

The General Synod prescribes as follows:

**Title**

1. This Canon may be cited as the “Constitution Amendment (Section 10) Canon 2007”.

**Amendment of section 10**

2. Section 10 of the Constitution is amended –
  - (a) by deleting the expression “or incapacity of the Primate or during his absence from Australia for a period exceeding thirty days” and by inserting in lieu thereof the expression, “of Primate or in the event of the Primate being unable to perform the duties of Primate, or declaring, by written statement furnished in accordance with the provisions of this section, that he is unavailable to perform the duties of Primate, for a period of more than fourteen days because of illness, incapacity, absence from Australia or annual or long service leave”;
  - (b) by inserting after the paragraph amended above the following paragraph:

A written statement prepared by the Primate for the purposes of the preceding paragraph shall be furnished to the Metropolitan or bishop who is to act in the place of the Primate under that paragraph with a copy filed in the registry of the Primate.

Annexure 11

**Constitution Amendment (Section 54A) Canon 2007**

**A canon to amend the Constitution in respect of persons licensed by the Primate in his capacity as Primate.**

The General Synod prescribes as follows:

1. This Canon may be cited as the "Constitution Amendment (Section 54A) Canon 2007".
2. The Constitution is amended by inserting after section 54 the following new section:
  - 54A(1) For the purposes of this section:

**"Primate's licensee"** means a person who holds or who has at any time held a licence from a Primate in the capacity as Primate, other than a bishop assistant to the Primate in the capacity as Primate;

**"professional standards matter"** means any information of whatever nature and from whatever source relating to the alleged misconduct or omission of a Primate's licensee wherever or whenever occurring, other than information concerning any alleged breach of faith, ritual or ceremonial.
  - (2) In respect of a Primate's licensee either of the following tribunals shall have jurisdiction to hear and determine a charge referred to in subsections (2) or (2A) of section 54 whenever or wherever the event or events giving rise to the charge may have occurred:
    - (a) the diocesan tribunal of the diocese of the Primate at the time when the charge is brought; or
    - (b) the diocesan tribunal of a diocese nominated by the Primate at the time when the charge is brought.
  - (3) Before nominating the tribunal of a diocese under subsection (2)(b) the Primate shall consult with the bishop of that diocese and with such other persons as may be prescribed by canon.
  - (4) Subject to the provisions of this section, in respect of proceedings brought against a Primate's licensee in a diocesan tribunal:

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- (a) the provisions of this Part and of any relevant diocesan ordinance shall apply as if the person were licensed by the bishop of the diocese in the tribunal of which the charge is brought and as if the Primate were the bishop;
  - (b) only a person nominated by the Primate may promote a charge against a Primate's licensee;
  - (c) only the Primate may suspend a Primate's licensee from the duties of his or her office to the extent that these duties arise from the Primate's licence, and the consent of the diocesan council shall not be required;
  - (d) a recommendation of the tribunal shall be made to the Primate;
  - (e) no appeal shall lie to a provincial tribunal;
  - (f) any costs and expenses reasonably incurred by –
    - i. the diocese in the tribunal of which the charge is brought, and
    - ii. by or on behalf of the Primate in respect of such a chargeshall be paid out of funds under the control of the Synod and may be included in any assessment referred to in section 32.
- (5) In respect of a Primate's licensee also holding a licence from a diocesan bishop:
- (a) if the Primate suspends the Primate's licensee under sub-section (4)(c) the bishop may exercise the power of suspension referred to in sub-section 61(1) notwithstanding that no charge other than one under this section has been promoted against the Primate's licensee; and
  - (b) if the diocesan bishop suspends a Primate's licensee under section 61 the Primate may exercise the power of suspension referred to in sub-section (4)(a) notwithstanding that no charge has been promoted under this section.
- (6) The Primate or his nominee may refer any professional standards matter concerning a Primate's licensee to the appropriate person or body of either:
- (a) the diocese of the Primate; or
  - (b) a diocese nominated by the Primate.
- (7) Before nominating a diocese under subsection (5) the Primate shall consult with the bishop of that diocese

and with such other persons as may be prescribed by canon.

- (8) Any professional standards matter referred under subsection (5) shall be dealt with in accordance with the provisions of any relevant ordinance of the diocesan synod or a rule or protocol in force in the diocese as if the Primate's licensee were licensed by the bishop of that diocese and as if the Primate were the bishop of that diocese.
  - (9) Any costs and expenses reasonably incurred –
    - (a) by the diocese to which a professional standards matter is referred under subsection (5), and
    - (b) by or on behalf of the Primate in respect of any such professional standards mattershall be paid out of funds under the control of the Synod and may be included in any assessment referred to in section 32.
  - (10) Nothing contained in this section shall prevent the operation of any other provision of this Chapter in a diocese in respect of a Primate's licensee, provided that a Primate's licensee cannot be the subject of proceedings in more than one diocesan tribunal for the same charge or for a charge based on the same conduct.
  - (11) Nothing contained in this section shall prevent a Primate's licensee from being dealt with in respect of a professional standards matter in accordance with the provisions of any relevant ordinance of the diocesan synod of a diocese or a rule or protocol in force in that diocese.
  - (12) The exercise of any power under this section by the Primate or by any person nominated by the Primate shall be subject to and in accordance with the provisions of any canon of the General Synod.
3. This canon shall not come into effect until after the General Synod by canon authorises the President to appoint a date on which this canon shall come into effect in accordance with section 67(2) of the Constitution.