

Tribunal Ordinance 1962 Amendment Ordinance 2001

No. 1, 2001

An Ordinance to amend the Tribunal Ordinance 1962.

The Synod of the Diocese of Sydney Ordains -

1. Name

This Ordinance is the Tribunal Ordinance 1962 Amendment Ordinance 2001.

1A. Amendment of the Tribunal Ordinance 1962

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Delete "with" in clause 4 of the Tribunal Ordinance 1962 and insert instead the word "within".

2. The following is inserted after clause 5 -

"Exclusion of Other Bodies

5A. Other than the Diocesan Tribunal and the Board of Enquiry, no other body shall be competent to hear or determine a matter relating to a charge or complaint in respect of a person licensed by the Archbishop or any other person in Holy Orders resident in the Diocese, until-

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(a) either the Board of Enquiry has determined whether the charge is a charge proper to be heard or the Tribunal has dealt with the matter to finality; and

(b) if appropriate, the Archbishop has given effect to the Tribunal's recommendation relating to the charge."

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2A. Delete "ten pounds" in clause 8 of the Tribunal Ordinance 1962 and insert instead the matter "\$100".

3. Clause 14 of the Tribunal Ordinance 1962 is deleted and the following is inserted instead -

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"Report of the Board of Enquiry where the Charge relates to faith, ritual or ceremonial

14. (1) This clause applies where the Charge relates to faith, ritual or ceremonial.

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(2) If the Board of Enquiry or a majority thereof allows that the Charge is a charge proper to be heard, they shall forward a written report of that allowance to the Registrar and the Registrar shall forward the report and all papers connected therewith to the Chancellor.

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(3) In the event that the Board of Enquiry or a majority thereof does not allow that the Charge is a

charge proper to be heard, they shall forward a written report of that disallowance containing their reasons to the Registrar and -

- (a) the Registrar shall forward the report to the Complainants and the Respondent; and 5
- (b) no further proceedings shall be taken on such Charge.”

3A. Insert a new heading and clause 14A in the Tribunal Ordinance 1962 as follows -

“Report of the Board of Enquiry where the Charge does not relate to faith, ritual or ceremonial 10

14A. (1) This clause applies where the Charge does not relate to faith, ritual or ceremonial.

(2) If the Board of Enquiry or a majority thereof are of the opinion that - 15

- (a) a prima facie case has been made out against the Respondent; and
- (b) there are no circumstances which will prevent the Respondent from receiving a fair trial before the Tribunal, 20

they shall forward a written report that they are of the opinion that the Charge is a charge proper to be heard to the Registrar and the Registrar shall forward the report and all papers connected therewith to the Chancellor.

(3) If the Board of Enquiry or a majority thereof are of the opinion that - 25

- (a) a prima facie case has not been made out; or
- (b) a prima facie case has been made out but having regard to all the evidence before the Board of Enquiry, the Tribunal is not likely to find the facts against the Respondent proved; or 30
- (c) there are circumstances which will prevent the Respondent from receiving a fair trial before the Tribunal, 35

they shall forward a written report that they are of the opinion that the Charge is not a charge proper to be heard containing their reasons to the Registrar and -

- (d) the Registrar shall forward the report to the Complainants and the Respondent; and 40
- (e) no further proceedings shall be taken on such Charge.”

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4. Clause 16 of the Tribunal Ordinance 1962 is amended by adding after the word "office" where it last appears the words "and such arrangements for the suspended person".
- 4A. Delete the matter "Arbitration Act 1902-1957" in clause 18 of the Tribunal Ordinance 1962 and insert instead "Commercial Arbitration Act 1984". 5
- 4B. Delete "Counsel or Solicitor" in clause 19 of the Tribunal Ordinance 1962 and insert instead "a legal practitioner".
- 4C. In clause 23 of the Tribunal Ordinance 1962 -
- (a) delete "a Barrister or Solicitor" and "Counsel or Solicitor" and insert instead "a legal practitioner"; and 10
 - (b) delete "seven" and insert instead "fourteen".
5. Clause 23 of the Tribunal Ordinance 1962 is amended by adding the after the word "Tribunal" the words "and the Board of Enquiry". 15
6. The following is inserted after clause 23 -
- "Assistant Advocate of the Diocese**
- 23A.(1) Two officers styled 'Assistant Advocate of the Diocese' who shall each be a legal practitioner of not less than seven years' standing shall from time to time be appointed by the Standing Committee of the Synod for a period of not exceeding five years. 20
- (2) An Assistant Advocate shall in the circumstances in subclause (4) have conduct of the charges before the Tribunal under this Ordinance. 25
- (3) During the term of his office an Assistant Advocate shall be liable to be removed from office by a vote of two-thirds majority of at least the whole number of members of the Standing Committee.
- (4) Where the Advocate - 30
- (a) is unable to prosecute the Charge because of illness or any other reason; or
 - (b) is unwilling to prosecute the Charge; or
 - (c) is or has been during the incumbency of the Respondent a member of the Parish in which the Respondent holds office, 35
- the Registrar shall in writing direct an Assistant Advocate, in respect of which the circumstances in paragraphs (a), (b) and (c) do not apply, to prosecute the Charge.
- Legal Assistance Panel** 40
- 23B. The Registrar shall establish, maintain and make available when requested a list of legal practitioners who may be willing to provide legal advice and assistance to Complainants or Respondents."

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7. Delete "a prima facie case has been made out" in clause 25 of the Tribunal Ordinance 1962 and insert instead "the Charge is a charge proper to be heard".
8. In clause 27(1) of the Tribunal Ordinance 1962 delete "twenty-six" in the definition of "Archbishop" and insert instead the matter "11".
9. In each of Schedules A and B of the Tribunal Ordinance 1962, substitute the words "Anglican Church of Australia" for "Church of England in Australia".

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

Chairman of Committees

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

Secretaries of Synod

I Assent to this Ordinance.

Archbishop of Sydney
/ /2001