

# **2017 Session of Synod**

## **Book 4**

(Pages 501 to 604)

### **Principal Legislation and Other Background Materials**

Standing Committee of the Synod  
Anglican Church Diocese of Sydney

## **2017 Principal Legislation and Other Background Materials** **(proposed to be amended, repealed or otherwise considered)**

### Contents

*Page*

#### **Synod business rules**

Conduct of the Business of Synod Ordinance 2000 .....	501
---	-----

#### **Principal Legislation**

Assistant Ministers Ordinance 1990 .....	518
Discipline Ordinance 2006 .....	521
Episcopal Standards Canon 2007 .....	566
General Synod – Canon Concerning Services 1992 Adopting Ordinance 1998 .....	576
Offences Ordinance 1962 .....	577
Relinquishment of Holy Orders Ordinance 1994 .....	580
Standing Committee Ordinance 1897 .....	582
Synod Membership Ordinance 1995 .....	588

## Conduct of the Business of Synod Ordinance 2000

(Reprinted under the Interpretation Ordinance 1985.)

The Conduct of the Business of Synod Ordinance 2000 as amended by the Conduct of the Business of Synod Amendment Ordinance 2002, the Conduct of the Business of Synod Amendment Ordinance 2005, the Archbishop of Sydney Election Amendment Ordinance 2009, the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2014 and the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2016.

### Table of Provisions

#### Clause

1	.....	Name
2	.....	Adoption of new rules of procedure
3	.....	Repeal of previous rules
4	.....	Commencement
		Schedule
		Part 1 – Meeting Time, President, Houses of the Synod and Quorum
1.1	.....	Meeting time
1.2	.....	President
1.3	.....	Houses of the Synod
1.4	.....	Quorum
		Part 2 – Officers and Committees of the Synod
2.1	.....	Introduction
2.2	.....	The Secretary of the Synod
2.3	.....	The Chair of Committees
2.4	.....	The Deputy Chair or Chairs of Committees
2.5	.....	The Committee of Elections and Qualifications
2.6	.....	The Committee for the Order of Business
2.7	.....	The Minute Reading Committee
2.8	.....	Casual Vacancies
		Part 3 – The Order of Business of the Synod
3.1	.....	Introduction
3.2	.....	Order of business for the first day of a session
3.3	.....	Order of business for the second and third days of a session
3.4	.....	Order of business for the fourth and subsequent days of a session
3.5	.....	Order of motions
		Part 4 – Resolutions
4.1	.....	Introduction
4.2	.....	General rules
4.3	.....	Notice of motions required
4.4	.....	Motions to be seconded
4.5	.....	Calling the motions on the business paper
4.5A	.....	Incorporation of amendments in principal motion
4.6	.....	Time limits for speeches
4.7	.....	Number of speeches
4.8	.....	After a motion has been seconded
4.9	.....	Amendments to motions
4.10	.....	Putting a motion to the vote
4.11	.....	Right of reply
4.12	.....	Voting on a motion
4.13	.....	Adjournment of debate
4.14	.....	Not voting on a motion
4.15	.....	Withdrawal of a motion
4.16	.....	Motions previously voted on
4.17	.....	Synod in Committee
4.18	.....	Proposed policies of the Synod

**Part 5 – Making of Ordinances by the Synod**

- 5.1 .....Introduction
- 5.2 .....Notice of the proposed ordinance is to be given
- 5.3 .....Introduction of the proposed ordinance
- 5.4 .....Passing the proposed ordinance formally
- 5.5 .....Approving the proposed ordinance in principle
- 5.6 .....Considering the text of the proposed ordinance
- 5.7 .....Passing the proposed ordinance
- 5.8 .....Further consideration of the text of the proposed ordinance
- 5.9 .....Reconsideration of the text of the proposed ordinance if assent is withheld
- 5.10 .....Proposed ordinances referred from the Standing Committee
- 5.11 .....Referral of ordinances by the Synod

**Part 6 – Other Matters**

- 6.1 .....Questions about the election or qualification of a member
- 6.2 .....Petitions to Synod
- 6.3 .....Questions
- 6.4 .....Personal explanations
- 6.5 .....Suspension of these rules
- 6.6 .....Media
- 6.7 .....Rules
- 6.8 .....Application of business rules

\*\*\*\*\*

An Ordinance to make rules for the conduct of the business of the Synod of the Diocese of Sydney.

The Synod of the Diocese of Sydney ordains.

**1. Name**

This Ordinance is the Conduct of the Business of Synod Ordinance 2000.

**2. Adoption of new rules of procedure**

The rules for the conduct of the business of the Synod of the Diocese of Sydney are in the Schedule to this Ordinance.

**3. Repeal of previous rules**

- (1) The Standing Orders Ordinance 1968 is repealed.
- (2) Each reference in an ordinance (other than this Ordinance) to the Standing Orders Ordinance 1968 is changed to the Conduct of the Business of Synod Ordinance 2000.

**4. Commencement**

Clauses 2 and 3 of this Ordinance commence on the day next following the last day of the second session of the 45th Synod or on the day on which assent is given to this Ordinance, whichever is later.

**Schedule****Synod of the Diocese of Sydney****Rules for Conducting the Business of the Synod****Part 1 Meeting Time, President, Houses of the Synod and Quorum****1.1 Meeting time**

- (1) The Synod is to meet at 3.15 pm on each appointed day unless it decides to meet at another time.
- (2) No motion about a proposed ordinance may be considered before 4.30 pm apart from the unopposed introduction of a proposed introduction.

**1.2 President**

- (1) The Archbishop is the President.
- (2) In the absence of the Archbishop, the President is the person appointed by the Archbishop as his commissary under section 11 of the Constitutions in the Schedule to the 1902 Constitutions.

- (3) In the absence of the Archbishop and the commissary, the President is the person next in ecclesiastical rank who is licensed in the Diocese and is present at the meeting of the Synod.
- (4) If the person who is the President of the Synod is, for any reason, unwilling or unable (otherwise than by absence) to preside in respect of any business of the Synod, the President is the person next in ecclesiastical rank after that person who is licensed in the Diocese and is present at the meeting of the Synod.
- (5) Nothing in this rule amends the provisions of the Constitutions in the Schedule to the 1902 Constitutions concerning the giving of assent to an ordinance of the Synod. Accordingly, a person who is President of the Synod under rule 1.2(2) or (3) or (4) may not assent to an ordinance unless that person is authorised to do so under those Constitutions.
- (6) In this rule 1.2, the word “Archbishop” means, if the See is vacant, the person appointed under an ordinance of the Synod to administer the Diocese.

### **1.3 Houses of the Synod**

- (1) Each member of the Synod (other than the President) is a member of a House of the Synod.
- (2) A member who is ordained is a member of the House of Clergy.
- (3) A member of the Synod who is not ordained is a member of the House of Laity.

### **1.4 Quorum**

- (1) When a motion about a proposed ordinance is being considered, one fourth of the members of each House is a quorum.
- (2) Otherwise, 50 members of the House of Clergy and 100 members of the House of Laity is a quorum.
- (3) If at the time fixed for a meeting of the Synod or during a meeting of the Synod, a quorum is not present the President is to adjourn the Synod to a time determined by him. If a debate is interrupted as a consequence then, subject to rules 3.3, 3.4 and 3.5, the debate is to resume at the point where it was interrupted.

## **Part 2 Officers and Committees of the Synod**

### **2.1 Introduction**

The Synod elects several officers and committees to assist it in conducting its business. Those officers and committees are

- (a) the Secretary of the Synod
- (b) the Chair of Committees
- (c) the Deputy Chair or Chairs of Committees
- (d) the Committee of Elections and Qualifications
- (e) the Committee for the Order of Business
- (f) the Minute Reading Committee.

This Part sets out the functions of the officers and committees of the Synod.

### **2.2 The Secretary of the Synod**

- (1) One member is to be elected as Secretary of the Synod on the first day of the first session of each Synod and, subject to rule 2.8, is to hold office until the first day of the first session of the next Synod.
- (2) The Secretary of the Synod is to
- (a) prepare the business paper for each day after the first day of each session of a Synod, and
  - (b) take minutes of the meetings of the session, and maintain the minute book, and
  - (c) record the ordinances passed by the Synod, and
  - (d) prepare and publish the report of the session of the Synod.
- (3) With the permission of the President, the Secretary of the Synod may give notices to the Synod about any matter concerning the business of the Synod.
- (4) The Secretary of the Synod may approve any report or other material from a Diocesan Body or Organisation being made available to members.

### **2.3 The Chair of Committees**

- (1) One member is to be elected as the Chair of Committees on the first day of the first session of each Synod and, subject to rule 2.8, is to hold office until the first day of the first session of the next Synod.

(2) The Chair of Committees presides during meetings of the Synod in Committee and, when presiding, has the same authority as the President.

#### **2.4 The Deputy Chair or Chairs of Committees**

(1) One or more members is to be elected as the Deputy Chair or Deputy Chairs of Committees on the first day of the first session of each Synod and, subject to rule 2.8, is to hold office until the first day of the first session of the next Synod.

(2) The Deputy Chair of Committees presides during meetings of the Synod in Committee if the Chair of Committees is unable or unwilling to act, or if the Chair of Committees requests that a Deputy Chair of Committees act. When presiding, the Deputy Chair has the same authority as the President.

(3) If more than one Deputy Chair of Committees is elected, the person to preside in the place of the Chair of Committees is to be determined by the persons who have been elected as Deputy Chairs of Committees or, if they are unable to agree, by the President.

(4) If

(a) the Chair of Committees, and

(b) the Deputy Chair of Committees or each of the Deputy Chairs of Committees,

are unable or are unwilling to preside during a meeting of the Synod in Committee, the person to preside during that meeting is to be a member appointed by the Synod as a result of a motion without notice passed by the Synod. When presiding, that person has the same authority as the President.

#### **2.5 The Committee of Elections and Qualifications**

(1) The Committee of Elections and Qualifications is to consist of not more than 5 members elected on the first day of the first session of each Synod and who, subject to rule 2.8, are to hold office until the first day of the first session of the next Synod.

(2) The Committee of Elections and Qualifications is to investigate and report when required by rule 6.1.

(3) A person may not act as a member of the Committee of Elections and Qualifications in relation to a question referred by the Synod about

(a) the validity of the election or appointment of that person as a member of the Synod, or

(b) that qualification of that person to be a member of the Synod.

#### **2.6 The Committee for the Order of Business**

(1) The Committee for the Order of Business is to consist of

(a) the Secretary of the Synod, and

(b) not more than 5 members elected by the Synod on the first day of the first session of each Synod and who, subject to rule 2.8, are to hold office until the first day of the first session of the next Synod

(2) The Committee for the Order of Business is to review the business paper for each day of a session, other than the first day, and settle the order of motions appearing on the business paper.

#### **2.7 The Minute Reading Committee**

(1) The Minute Reading Committee is to consist of not more than 8 members elected on the first day of the first session of each Synod and who, subject to rule 2.8, are to hold office until the first day of the first session of the next Synod.

(2) Any 2 members of the Minute Reading Committee are to review the minutes of the proceedings of each day and certify their correctness, or otherwise, to the President.

#### **2.8 Casual vacancies**

(1) A casual vacancy in any office or in the membership of any committee elected under this Part 2 arises if the person holding the office or membership –

(a) dies,

(b) resigns by written notice given to the President, or

(c) ceases to be a member of the Synod.

(2) A casual vacancy in any office or in the membership of any committee held by a person elected under this Part 2 also arises if the Synod declares, as a result of a motion with or without notice passed by the Synod, the office or membership to be vacant.

(3) A casual vacancy arising under rule 2.8(1) or (2) may be filled by the Synod or, if the Synod is not in session, by the Standing Committee. A person who is elected by the Standing Committee to fill a casual vacancy holds office or remains a member of the committee until the next session of the Synod.

### **Part 3 The Order of Business of the Synod**

#### **3.1 Introduction**

This Part sets out the order in which the business of the Synod is to be conducted on each day of a session.

#### **3.2 Order of business for the first day of a session**

The order of business for the first day of a session of is as follows.

- (a) The President, or a person appointed by him, is to read prayers.
- (b) The President is to table a list of the members of the Synod.
- (c) The President may make a speech to the Synod.
- (d) The President is to table a document appointing a commissary.
- (e) The Synod is to consider any motion to declare a vacancy or vacancies among the membership of the Property Trust in accordance with the Anglican Church Property Trust Diocese of Sydney Ordinance 1965.
- (f) The President is to table a list of the results of uncontested elections and declare the persons concerned elected.
- (g) Where required under Part 2, the Synod is to consider motions for the election of
  - the Secretary of Synod
  - the Chair of Committees
  - the Deputy Chair or Chairs of Committees
  - the Committee of Elections and Qualifications
  - the Committee for the Order of Business
  - the Minute Reading Committee.
- (h) The minute book of the Standing Committee is to be tabled.
- (i) The President is to allow members to present petitions.
- (j) The President is to allow members to ask questions in accordance with rule 6.3.
- (k) The President is to allow members to move or give notice of procedural motions and is to invite members to give notice of other motions.
- (l) The President is to call the motions in the order in which they appear on the business paper in accordance with rule 4.5.
- (m) The Synod is to consider motions for the formal reception and printing of reports, accounts and other documents in the order in which they appear on the business paper.
- (n) The Synod is to consider motions for proposed ordinances which have been referred from a previous session of the Synod, or from a previous Synod, in the order in which they appear on the business paper, unless the Synod determines, by motion without notice, that those motions should be considered on a subsequent day.
- (o) The Synod is to consider motions to be moved at the request of the Synod or the Standing Committee in the order in which they appear on the business paper.
- (p) The Synod is to consider motions to be moved at the request of a regional council in the order in which they appear on the business paper.
- (q) The Synod is to consider motions received by the Standing Committee from members in accordance with rule 4.3(3) in the order in which they were received.

#### **3.3 Order of business for the second and third days of a session**

The order of business for the second and third days of a session is as follows.

- (a) The President, or a person appointed by him, is to read prayers.
- (b) The President, or a person appointed by him, is to read a passage from the Bible and apply it.
- (c) The minutes of the proceedings of the previous day are to be signed by the President as a correct record, or be otherwise dealt with.
- (d) Subject to rule 6.3(5), answers to questions asked on the previous day are to be given.
- (e) The President is to allow members to ask questions in accordance with rule 6.3.

- (f) The President is to allow members to move or give notice of procedural motions and is to invite members to give notice of other motions.
- (g) The President is to call the motions in the order in which they appear on the business paper in accordance with rule 4.5.
- (h) The Synod is to consider motions about proposed ordinances in the order in which they appear on the business paper.
- (i) The Synod is to consider other motions in the order in which they appear on the business paper.

### **3.4 Order of business for the fourth and subsequent days of a session**

The order of business for the fourth and subsequent days of a session of the Synod is the order specified in rule 3.3 except that no member may

- (a) ask a question, or
- (b) give notice of a motion,

except with the permission of the majority of the members then present.

### **3.5 Order of motions**

Motions are to be considered in the order in which they appear on the business paper. The Synod may determine, as a result of a procedural motion passed by the Synod,

- (a) to vary the order in which motions are considered, or
- (b) to fix a time for when a motion is to be considered.

## **Part 4 Resolutions**

### **4.1 Introduction**

The main way in which the Synod expresses a view on a matter is by the making of a resolution. Generally, a resolution is made in the following way.

- (a) A member of the Synod (referred to in these rules as the “mover”) moves a motion (referred to in these rules as the “principal motion”). Usually, the mover will have given notice of the principal motion on a previous day.
- (b) Except during a meeting of the Synod in Committee, a motion is to be seconded.
- (c) When called by the President, the mover will speak in support of the principal motion and the seconder may also speak in support of the motion.
- (d) Instead of making separate speeches in support of the principal motion, the mover and seconder may, by notice to the Synod, elect to make a joint presentation in support of the principal motion for up to the combined length of time the mover and seconder would otherwise be permitted to speak.
- (e) A speech or presentation referred to in paragraph (c) or (d) may, by arrangement with the Secretary of the Synod, be accompanied by overhead visual material.
- (f) If any member wishes to speak against the principal motion, or move a proposed amendment, debate will proceed.
- (g) If no member wishes to speak against the principal motion or move an amendment, the President is to ask the Synod to vote on the principal motion.
- (h) After debate has concluded, the President is to ask the Synod to vote on any amendments. After any amendments have been agreed to or rejected, the President is to ask the Synod to vote on the principal motion, as amended by any amendments which have been agreed.
- (i) If the principal motion, with or without amendments, is passed, it becomes a resolution of the Synod.

The remaining rules in this Part contain the details of this procedure, and the details of the special situations in which the general procedure is modified.

### **4.2 General rules**

- (1) A member may only address the Synod when called by the President to do so.
- (1A) A member who wishes to be called by the President to address the Synod is to stand in his or her place, or if directed by the President, to stand near a microphone. The President is to call from among those standing the member who may address the Synod.
- (2) The President may take part in debate.



- (3) If the President stands, all other members are to sit and remain seated until the President sits down.
- (4) Any member may speak to a question about procedure. A question about procedure is to be decided by the President whose decision is final unless immediately altered as a result of a motion without notice passed by the Synod.
- (5) The President is to confine each speaker to the subject matter being debated. A member may not interrupt a speaker, except with the permission of the President, or as a result of a motion without notice passed by the Synod.
- (6) A speaker may not make a remark which reflects adversely on the personality of any member or imputes an improper or questionable motive to any member. If a speaker makes such a remark, the President is to
  - (a) ask the speaker to withdraw the remarks and apologise and,
  - (b) warn the speaker against making such remarks in future.

If, having been asked, the speaker refuses to withdraw the remark and apologise, the member may be suspended from the Synod as a result of a motion with or without notice passed by the Synod, for the time specified in the motion.

- (7) A member may not act in a disorderly way. If a member acts in a disorderly way, he or she may be suspended from the Synod as a result of a motion with or without notice passed by the Synod, for the time specified in the motion.

### **4.3 Notice of motions required**

- (1) The Synod is not to consider a motion unless
  - (a) notice of the motion was given on a previous day, or
  - (b) the Synod agrees to consider the motion.
- (2) Motions intended to facilitate the consideration of business are known as 'procedural motions'. Rule 4.3(1) does not apply to procedural motions and those other motions for which notice is not required by Parts 4 and 5.
  - (2A) Rule 4.3(1) does not apply to motions to amend a motion.
- (3) A member may send notice of a motion to the Standing Committee to be received at least 1 month before the first day of the session. Notice of such motion is to be printed on the business paper for the first day of the session. A member may not send notice of more than 2 motions.
- (4) If notice in writing is given to a Secretary of the Synod by 7.00 pm on the first day of a session then notice of the motion will be regarded as having been given on a previous day for the purposes of rule 4.3(1).

### **4.4 Motions to be seconded**

- (1) No motion, or motion to amend a motion, is to be considered unless it is seconded.
- (2) Rule 4.4(1) does not apply to a motion moved in a meeting of the Synod in Committee.

### **4.5 Calling the motions on the business paper**

- (1) At the time required by rule 3.2, 3.3 or 3.4, the President is to call the motions in the order in which they appear on the business paper, except those motions about a proposed ordinance or those motions to be considered at a time fixed by the Synod.
- (2) When a motion is called, the President is to ask for the motion to be formally moved and seconded unless 8 or more members call "object" or 1 or more members calls "amendment". If the motion is formally moved and seconded, the Synod is to vote on the motion without any speeches or debate.
- (3) If 8 or more members call "object" or 1 or more members calls "amendment"
  - (a) the President is to immediately call the next motion on the business paper to be called under this rule or, if there is no such motion, proceed to the next item of business, and
  - (b) any member who calls "amendment" is to
    - deliver a written copy of the proposed amendment to the Secretary of the Synod, and
    - make himself or herself available to discuss the proposed amendment with the mover of the motion on the day on which the call is made.

#### **4.5A Incorporation of amendments in principal motion**

If the mover of a principal motion (the 'Mover') notifies the Secretary of the Synod that –

- (a) having discussed a proposed amendment with the mover of the amendment, the Mover agrees to include the proposed amendment in the principal motion, or
- (b) the Mover wishes to move the principal motion in an amended form,

the motion in the amended form becomes the principal motion and is to be printed in a suitably marked form on the next day's business paper.

#### **4.6 Time limits for speeches**

- (1) The following time limits for speeches apply.
  - (a) For a motion that a proposed ordinance be approved in principle –
    - the mover may speak for up to 15 minutes, and up to 5 minutes in reply
    - other members may speak for up to 5 minutes.
  - (b) For other motions, except the motions referred to in paragraphs (c) and (d) –
    - the mover may speak for up to 10 minutes, and up to 5 minutes in reply
    - other members may speak for up to 5 minutes.
  - (c) For procedural motions and for motions to amend a motion, a member may speak for up to 5 minutes.
  - (d) For motions moved in a meeting of the Synod in Committee, a member may speak for up to 3 minutes.
- (2) A member, not being the speaker at the time, may, without making a speech, move a procedural motion for the speaker to continue for a nominated number of minutes.

#### **4.7 Number of speeches**

- (1) No member may speak more than once on the same motion except
  - (a) during a meeting of the Synod in Committee, or
  - (b) when invited to give an explanation, or
  - (c) when exercising a right of reply under rule 4.11.
- (2) A member who formally seconds a motion is not regarded as having spoken to the motion.

#### **4.8 After a motion has been seconded**

- (1) After a motion has been moved and seconded, the President is to ask a question to the effect "Does any member wish to speak against the motion or move an amendment?"
- (2) If no member indicates a wish to speak against the motion or move an amendment, the Synod is to vote on the motion without any debate.
- (3) If a member indicates a wish to speak against the motion or move an amendment, debate on the motion is to proceed.

#### **4.9 Amendments to motions**

- (1) A member may move a motion to amend a principal motion at any time before the close of debate. The motion to amend must be in writing and a copy handed to the President.
- (2) A member may move a motion to amend a motion to amend a principal motion. The motion to amend must be in writing and a copy handed to the President.
- (2A) A motion to amend is not to be irrelevant to the principal motion or give rise to an entirely different subject matter from or a direct negative of the principal motion.
- (3) A member may, with the permission of the Synod, withdraw their own motion to amend at any time before the close of debate.
- (4) If motions to amend have been moved, but not passed by the Synod, the motion to be put to the vote is the principal motion.
- (5) If motions to amend have been moved and passed by the Synod, the motion to be put to the vote is the amended principal motion.
- (6) If a member has moved a motion to amend and another member moves a motion for a different amendment or indicates an intention to move a motion for a different amendment, the President may
  - (a) put to the Synod questions about the principal motion and the proposed amendment to establish the mind of the Synod on the principle or principles of the motions, or
  - (b) nominate a person or persons to

- prepare a suitable form of words which expresses the mind of the Synod
  - report to the Synod,
- and adjourn the debate on the principal motion and the proposed amendments until the report has been received.

(7) If debate on a motion is adjourned under rule 4.9(6)(b), the Synod is to proceed to the next item of business.

(8) If the President considers that the strict application of rule 4.9 may cause confusion or prevent the Synod from expressing its mind, he may waive the application of this rule, or so much of it as he thinks fit.

#### **4.10 Putting a motion to the vote**

(1) If, during the time for debate on a motion, no further member indicates a wish to speak to the motion, the President may declare that the debate has ended, subject to the mover of the motion exercising or declining to exercise a right of reply under rule 4.11.

(2) If the President thinks that sufficient time has been allowed for debate on a motion but there remains one or more members indicating a wish to speak to the motion, the President is to ask the Synod a question to the effect

“Does the Synod consider that the motion has been sufficiently debated and should now be voted on?”

If the majority of the members present answer “Aye”, the debate on the motion will be regarded as having ended, subject to the mover of the motion exercising or declining to exercise a right of reply under rule 4.11. If the majority of members present answer “No” the President is to allow the debate to continue. Rule 4.10(1) and rule 4.10(2) apply until debate has ended.

#### **4.11 Right of reply**

(1) The mover of a motion has a right of reply after debate on a motion has ended unless the motion is

- (a) a procedural motion, or
- (b) a motion for an amendment, or
- (c) a motion moved in a meeting of the Synod in Committee.

(2) After the mover has exercised or declined to exercise their right of reply, the motion is to be voted on.

#### **4.12 Voting on a motion**

(1) A vote on a motion is taken by the President asking members present who are in favour of the motion to say “Aye” and then to ask those members who are against the motion to say “No”. Voting may also take place by a show of hands at the option of the President or if requested by a member. A motion is passed only if a majority of the persons present and voting vote in favour of the motion.

(2) If requested by 8 or more members, voting on a motion is to be conducted by ballot. If a ballot is requested, the Synod shall vote in accordance with the directions of the Secretary of the Synod.

(3) The members of the Synod are to vote collectively unless 8 members request that the vote be taken by Houses.

(4) If a vote is required to be taken by Houses, each House is to vote separately in accordance with the directions of the Secretary of the Synod, provided that the House of Laity is to vote first. The motion is passed only if a majority of persons present and voting in each House vote in favour of the motion. If a majority of the persons present and voting in the House of Laity do not vote in favour of the motion, the House of Clergy is not required to vote.

#### **4.13 Adjournment of debate**

(1) A procedural motion for the adjournment of either the Synod or a debate may be moved without notice at any time between speeches.

(2) If debate on a motion is adjourned, that debate takes precedence over all other business, unless these rules provide otherwise, or the Synod decides otherwise as a result of a motion without notice passed by the Synod.

#### **4.14 Not voting on a motion**

(1) If it is desired to avoid or postpone a vote on a motion, a member may move without notice the procedural motion

“That the motion not be voted on.”

(2) When this procedural motion is moved, the President is to immediately ask the Synod a question to the effect

“Does the Synod wish the debate on the principal motion to continue before the procedural motion is put to the Synod?”

(3) The question asked by the President in rule 4.14(2) may be debated but the debate is to be limited to that question until it is disposed of by vote of the Synod.

(4) If the majority of members present and answering answer “Aye” to the question asked by the President in rule 4.14(2), debate on the principal motion is to continue and the mover of that motion has a right of reply before the procedural motion is voted on. If the procedural motion is not passed, the principal motion, and any amendments, are to be voted on immediately without further debate.

(5) If the majority of members present and answering answer “No” to the question asked by the President in rule 4.14(2), the President is to immediately put the procedural motion without debate and without any right of reply.

(6) The procedural motion in rule 4.14(1) is not to be moved in a meeting of the Synod in Committee.

#### **4.15 Withdrawal of a motion**

A motion may be withdrawn at any time by its mover with the permission of the Synod.

#### **4.16 Motions previously voted on**

(1) No motion which has been considered by the Synod and voted on is to be debated again during the same session of the Synod.

(2) No motion which is substantially the same as one which has been voted on during the same session is to be considered. However a motion is not to be regarded as substantially the same as one which has been voted on during the same session if –

- (a) the motion is a direct negative of the one voted on, and
- (b) the one voted on was not passed.

(3) Any question about whether a motion is substantially the same as one which has been voted on during the same session is to be decided by the President whose decision is final unless immediately altered as a result of a motion without notice agreed to by the Synod.

#### **4.17 Synod in Committee**

(1) The Synod may, as a result of a procedural motion passed by the Synod, resolve itself into the Synod in Committee to consider any matter. A motion for the Synod to resolve itself into the Synod in Committee to consider the text of a proposed ordinance (see rule 5.6) is

“That Synod resolves itself into the Synod in Committee to consider [further] the text of the [name of proposed ordinance].”

(2) During a meeting of the Synod in Committee, the Chair of Committees or the Deputy Chair of Committees has the functions set out in rules 2.3 and 2.4.

(3) The Synod in Committee may, as a result of a procedural motion passed by the Committee, resolve to adjourn its meeting. A motion to adjourn a meeting of the Synod in Committee is

“That the Chair of Committees leaves the chair and reports progress.”

(4) On a motion to adjourn a meeting of the Synod in Committee being passed, the Chair of Committees is to report progress to the Synod.

(5) When the Synod in Committee has concluded consideration of the matter before it, the Chair of Committees is to report to Synod. Where the matter being considered was the text of a proposed ordinance, the Chair of Committees is to report in the manner referred to in rule 5.6(3).

(6) The rules of procedure in this Part 4, so far as applicable, apply to a meeting of the Synod in Committee.

(7) In a meeting of the Synod in Committee the same number of members constitutes a quorum as in the Synod itself. If a quorum is not present, the Chair of Committees is to leave the chair and report progress.

#### **4.18 Proposed policies of the Synod**

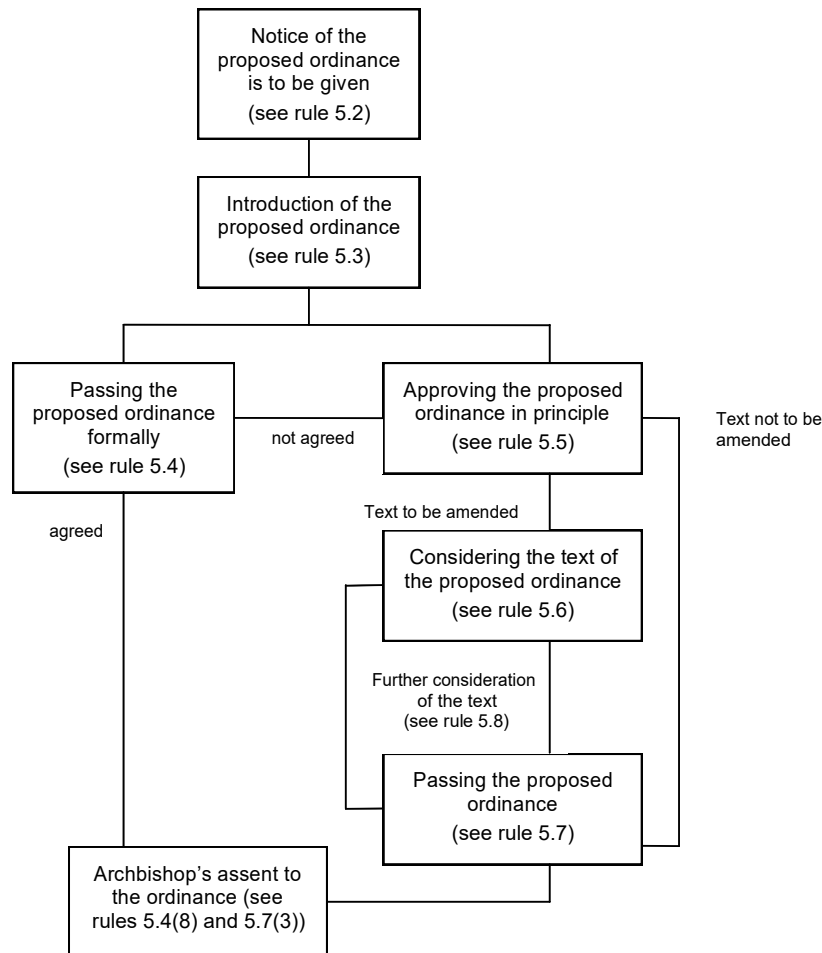
(1) The Standing Committee or the Synod may designate a written statement as a proposed policy of the Synod. A statement designated by the Standing Committee as a proposed policy of the Synod must be clearly marked as such.

- (2) The Synod may consider a proposed policy of the Synod only if a copy has been circulated to members present before consideration of the proposed policy commences in accordance with rule 4.18(3).
- (3) For the purposes of considering a proposed policy of the Synod, the procedures for the making of ordinances under Part 5 (from and including rule 5.5 but excluding rules 5.7(3)(b), 5.9 and 5.10) apply as if the proposed policy were a proposed ordinance.

## Part 5 Making of Ordinances by the Synod

### 5.1 Introduction

The general procedure for the making of an ordinance by the Synod is summarised in the following diagram.



The remaining rules in this Part contain the detail of this procedure, and the details of the special situations where the general procedure is modified.

### 5.2 Notice of the proposed ordinance is to be given

- (1) Notice of a proposed ordinance is to be given to members before the Synod may consider the proposed ordinance.
- (2) Except as provided by rule 5.2(3), notice will be regarded as having been given only if a copy of the proposed ordinance has been circulated to members present before a motion to introduce the proposed ordinance is moved.
- (3) If a proposed ordinance seeks
- (a) to assent to a canon of the General Synod of the Anglican Church of Australia to amend the Constitution in the Schedule to the Anglican Church of Australian Constitution Act 1961, or
  - (b) to amend rule 5.2,
- notice will be regarded as having been given only if

- (c) a copy of the proposed ordinance was sent to each member at least 3 months before the first day of the session at which the proposed ordinance is to be considered, or
- (d) 75% of the members present and voting permit the proposed ordinance to be introduced without notice, other than the notice provided for in rule 5.2(2).

### **5.3 Introduction of the proposed ordinance**

- (1) A proposed ordinance is introduced by a member moving a motion to the effect  
“That Synod permits the introduction of the [name of the proposed ordinance].”
- (2) If the motion to introduce the proposed ordinance is passed, the mover may immediately move a motion to the effect -  
“That Synod agrees to consider passing the proposed ordinance formally.”
- (3) If the motion to consider passing the proposed ordinance formally is passed, the procedure in rule 5.4 applies.
- (4) If
  - (a) the mover does not move a motion to the effect that the Synod agrees to consider passing the proposed ordinance formally, or
  - (b) such a motion is moved but is not passed,

the mover may immediately move the motion in rule 5.5(1). If the mover does not immediately move that motion, the mover is to move a motion to the effect –

“That Synod agrees to consider [at a specified time] a motion that the [name of the proposed ordinance] be approved in principle.”

### **5.4 Passing the proposed ordinance formally**

- (1) If the Synod agrees to consider passing a proposed ordinance formally, the mover may immediately make a speech for not longer than 3 minutes about the proposed ordinance.
- (2) At the end of the speech, the President is to ask a question of the Synod to the effect  
“Does any member have a question about the proposed ordinance?”
- (3) If a member indicates that he or she has a question, the President is to allow the question to be asked and rules 5.4(4), 5.4(5) and 5.4(6) apply. If no member indicates that he or she has a question, the time for questions will be regarded as having ended.
- (4) A question is to be answered by the mover or seconder unless the President allows another person to answer the question.
- (5) If, during the time for questions, no further member indicates that he or she has a question, the President may declare that the time for questions has ended.
- (6) If the President thinks that sufficient time has been allowed for questions but there remains one or more members indicating a wish to ask a question, the President is to ask the Synod a question to the effect

“Does the Synod consider that sufficient time has been allowed for questions?”

If the majority of members present answer “Aye”, the time for questions will be regarded as having ended. If the majority of members present answer “No”, the President is to allow the time for questions to continue. Rules 5.4(5) and 5.4(6) apply until the time for questions has ended.

- (7) Subject to rule 5.4(9), after the time for questions has ended, the mover is to immediately move a motion to the effect

“That the [name of the proposed ordinance] pass formally as an ordinance of the Synod.”

- (8) If the Synod passes the proposed ordinance formally as an ordinance of the Synod, as soon as possible the Secretary of the Synod is to send to the Archbishop for his assent, the original copy of the ordinance upon which

- (a) the Chair of Committees has certified the text of the ordinance, and
- (b) the Secretary of the Synod has certified that the ordinance has passed as an ordinance of the Synod.

- (9) If
- (a) prior to the motion in rule 5.4(7) being voted on, 8 members stand in their place to object to the proposed ordinance being passed formally, or
  - (b) the motion in rule 5.4(7) is not passed,
- the mover is to immediately move a motion to the effect
- “That Synod agrees to consider [forthwith or at a specified time] a motion that the [name of proposed ordinance] be approved in principle.”

### 5.5 Approving the proposed ordinance in principle

- (1) At the time permitted by these rules, the mover of a proposed ordinance may move a motion to the effect

“That the [name of the proposed ordinance] be approved in principle.”

- (2) After this motion has been moved and seconded, and the mover and seconder have spoken, the President is to ask the Synod a question to the effect

“Does any member have a question about the proposed ordinance?”

- (3) If a member indicates that he or she has a question, the President is to allow the question to be asked and rules 5.5(4), 5.5(5) and 5.5(6) apply. If no member indicates that he or she has a question, the time for questions will be regarded as having ended.

- (4) A question is to be answered by the mover or seconder unless the President allows another person to answer the question. If, during the time for questions, no further member indicates that he or she has a question, the President may declare that the time for questions has ended.

- (5) If the President thinks that sufficient time has been allowed for questions but there remains one or more members indicating a wish to ask a question, the President is to ask the Synod a question to the effect –

“Does the Synod consider that sufficient time has been allowed for questions?”

- (6) If the majority of members present answer “Aye”, the time for questions will be regarded as having ended. If the majority of members present answer “No”, the President is to allow the time for questions to continue. Rules 5.5(5) and 5.5(6) apply until the time for questions has ended.

- (7) After the time for questions has ended, the President is to immediately ask the Synod a question to the effect

“Does any member wish to speak for, or against the motion, or to move an amendment to it?”

- (8) If a member indicates that he or she wishes to speak for, or against the motion, or to move an amendment, the President is to allow debate on the motion to proceed.

- (9) Upon a proposed ordinance being approved in principle, the President is to immediately ask the Synod a question to the effect

“Does any member wish to move an amendment to the text of the proposed ordinance?”

- (10) If a member indicates to the President that he or she wishes to move an amendment to the text of the proposed ordinance, rule 5.6 applies.

- (11) If no member indicates to the President that he or she wishes to move an amendment, rule 5.7 applies and the mover is to immediately move the motion in rule 5.7(1).

### 5.6 Considering the text of the proposed ordinance

- (1) If upon the President asking the question under rule 5.5(9) a member indicates that he or she wishes to move an amendment to the text of the proposed ordinance, the Synod is to

- (a) immediately consider the text of the proposed ordinance in a meeting of the Synod in Committee, or
- (b) determine another time for such consideration.

- (2) When considering the text of a proposed ordinance in a meeting of the Synod in Committee, the Chair of Committees is to put each clause of the proposed ordinance separately in the order in which the clauses occur in the proposed ordinance, leaving the title and the preamble to be considered last, unless, in the opinion of the Chair of Committees, it is expedient to put 2 or more consecutive clauses together.

(3) When consideration of the text of the proposed ordinance has been completed by the Synod in Committee, the Chair of Committees is to report the proposed ordinance to the Synod, with or without amendments as the case may be.

(4) Upon the report of an ordinance with amendments being adopted by the Synod as a result of a motion without notice passed by the Synod, the mover of the proposed ordinance is to immediately move a motion to the effect

“That Synod agrees to consider [on a specified future day/on a specified future day and at a specified time] a motion that the [name of the proposed ordinance] pass as an ordinance of the Synod.”

(5) Upon the report of an ordinance without amendments being adopted by the Synod as a result of a motion without notice passed by the Synod, the mover of the proposed ordinance may move the motion under rule 5.7(1) unless 8 members object, in which case the mover is to immediately move the motion under rule 5.6(4).

### **5.7 Passing the proposed ordinance**

(1) When permitted by these rules, the mover may move a motion to the effect

“That the [name of proposed ordinance] pass as an ordinance of the Synod.”

(2) A motion that a proposed ordinance pass as an ordinance of the Synod is not to be moved until the Chair of Committees has certified the text on the original copy of the proposed ordinance.

(3) If the Synod passes a motion that a proposed ordinance pass as an ordinance of the Synod, the Secretary of the Synod is to

- (a) certify on the original copy of the ordinance that the ordinance has passed as an ordinance of the Synod, and
- (b) as soon as possible, send the original copy of the ordinance to the Archbishop to enable him to consider his assent.

### **5.8 Further consideration of the text of the proposed ordinance**

At any time before the Synod passes a motion that a proposed ordinance pass as an ordinance of the Synod, the Synod may, as a result of a motion with or without notice passed by the Synod, refer the proposed ordinance, or any clause of the proposed ordinance, or any amendment, to the Synod in Committee for consideration. Rules 5.6, 5.7 and 5.8 then apply, so far as they are relevant.

### **5.9 Reconsideration of the text of the proposed ordinance if assent is withheld**

If the Archbishop withholds assent to an ordinance then, ignoring rules 5.3, 5.4 and 5.5, the Synod may, as a result of a motion with notice passed by the Synod, refer the proposed ordinance, or any clause of the proposed ordinance, or any amendment, to the Synod in Committee for consideration. Rules 5.6, 5.7 and 5.8 then apply, so far as they are relevant.

### **5.10 Proposed ordinances referred from the Standing Committee**

If an ordinance proposed to be made by the Standing Committee is referred to the Synod then, subject to notice of the proposed ordinance being given in accordance with rule 5.2, consideration of the proposed ordinance by the Synod is to commence with a member moving the motion in rule 5.3(1).

### **5.11 Referral of ordinances by the Synod**

(1) The Synod may, as a result of a motion with or without notice passed by the Synod, refer a proposed ordinance at any point in the procedure concerning it

- (a) to the next session of the same Synod, or
- (b) to a session of the next Synod.

(2) Consideration of the proposed ordinance at the next session of the Synod or at a session of the next Synod, as the case may be, resumes at the point in the procedure reached when it was referred.

## **Part 6 Other Matters**

### **6.1 Questions about the election or qualification of a member**

(1) A question about

- (a) the validity of the election or appointment of a member, or
- (b) the qualification of any person to be a member,

may be referred by the Synod to the Committee of Elections and Qualifications for investigation.



- (2) The Committee of Elections and Qualifications
  - (a) may meet during a session of the Synod, and
  - (b) when investigating a question referred to it, may receive such evidence as is available, whether that evidence would be admissible in legal proceedings or not.
- (3) After completing its investigation, the Committee of Elections and Qualifications is to report to the Synod its findings about
  - (a) whether the relevant member was validly elected or appointed, or
  - (b) whether the person is qualified to be a member.
- (4) A member of the Synod may move, with or without notice, that the report of the Committee of Elections and Qualifications be adopted. The motion is to state whether the member who is the subject of the report has been validly elected or appointed or not, or whether the person is qualified to be a member.
- (5) If the Synod passes a motion to the effect that a person has not been validly elected or appointed, or that the person is not qualified to be a member, that person is not to thereafter take part in the proceedings of the Synod unless and until that person becomes duly elected, appointed or qualified, as the case may be.

## **6.2 Petitions to Synod**

- (1) This rule 6.2 applies to the petitions referred to in rule 3.2(i).
- (2) Petitions must be in writing and conclude with the signatures of the petitioners.
- (3) No petition is to
  - (a) be expressed in language which, in the opinion of the President, is disrespectful or offensive, or
  - (b) have been altered by erasure or interlineation.
- (4) A member presenting a petition is to
  - (a) be acquainted with the contents of the petition, and
  - (b) affix his or her name at the beginning of the petition, and
  - (c) state from whom it comes and its contents.
- (5) On the presentation of a petition, the only motion the Synod is to consider is a motion to the effect  
“That Synod receives the petition.”

## **6.3 Questions**

- (1) This rule 6.3 applies to the questions referred to in rule 3.3(e).
- (2) A question may be asked by any member. A member called on by the President to do so is to make a brief statement informing the Synod of the subject matter of the question and hand the full text of the question to the Secretary of the Synod to be printed in the business paper for the next day of the session.
- (3) A question is to relate to a matter connected with the business of
  - (a) the Synod, or
  - (b) any committee, board or commission of the Synod, or established by or under an ordinance, or by resolution of the Synod or the Standing Committee.
- (4) No question is to
  - (a) contain an assertion, or
  - (b) express an opinion, or
  - (c) offer an argument, or
  - (d) make any inference or imputation, or
  - (e) be expressed in language which, in the opinion of the President, is disrespectful or offensive, or
  - (f) seek a legal opinion.
- (5) An answer to a question is to be read orally to the Synod by the President on the next day or as soon as convenient after the next day without the question being asked again. As soon as possible a written copy is to be posted on a notice board in a prominent position in or near the building in which the Synod is meeting. A written copy is also to be handed to the member asking the question upon request made to the Secretary of the Synod.

(6) If the answer includes statistics or other detailed material, the answer may be supplemented with data projected on a screen or a document which need not be read orally.

(7) Each question and reply is to be recorded in the minutes of the Synod.

#### **6.4 Personal explanations**

With the permission of the President, a member may explain matters of a personal nature. These matters are not to be debated.

#### **6.5 Suspension of these rules**

Any rule of procedure may be suspended by motion

- (a) with notice, or
- (b) without notice unless 8 members object.

#### **6.6 Media**

(1) Unless the Synod otherwise determines as a result of a motion with or without notice passed by the Synod, the proceedings of the Synod are to be open to the media.

(2) With the permission of the President, the proceedings, or parts of the proceedings, may be televised, broadcast or photographed.

#### **6.7 Rules**

A rule which the Synod is authorised to make by the Constitutions set out in the Schedule to the Anglican Church of Australia Constitutions Act 1902 may be made by resolution, unless those Constitutions require the rule to be made by ordinance. No rule made by resolution is to be contrary to the terms of an ordinance.

#### **6.8 Application of business rules**

(1) Any question about the application of these rules, the form of motions and ordinances and the voting on motions and ordinances during a session of the Synod is to be decided by the President. The President's decision on all such questions is final unless immediately altered as a result of a motion without notice agreed to by the Synod.

(2) In making a decision under rule 6.8(1), the President may have recourse to the rules, forms and practice of the Legislative Assembly of New South Wales.

---

#### **Table of Amendments**

Rule 1.2	Amended by Ordinance No 34, 2005.
Rule 2.1	Amended by Ordinance No 38, 2014.
Rule 2.2	Amended by Ordinance No 38, 2014.
Rule 2.3	Amended by Ordinance No 38, 2014.
Rule 2.4	Amended by Ordinance No 38, 2014.
Rule 2.5	Amended by Ordinance No 38, 2014.
Rule 2.6	Amended by Ordinance No 38, 2014.
Rule 2.7	Amended by Ordinance No 38, 2014.
Rule 2.8	New rule inserted by Ordinance No 38, 2014.
Rule 3.2	Amended by Ordinances Nos 61, 2002 and 38, 2014.
Rule 3.3	Amended by Ordinances Nos 61, 2002 and 38, 2014.
Rule 3.5	Amended by Ordinance No 38, 2014.
Rule 4.1	Amended by Ordinance No 44, 2016.
Rule 4.2	Amended by Ordinances Nos 26, 2009 and 38, 2014.
Rule 4.3	Amended by Ordinance No 38, 2014.
Rule 4.5	Amended by Ordinance No 38, 2014.
Rule 4.5A	New rule inserted by Ordinance No 38, 2014.
Rule 4.6	Amended by Ordinances Nos 61, 2002 and 38, 2014.
Rule 4.9	Amended by Ordinance No 38, 2014.
Rule 4.10	Amended by Ordinance No 61, 2002.

Rule 4.11	Amended by Ordinance No 38, 2014.
Rule 4.12	Amended by Ordinances Nos 61, 2002 and 38, 2014.
Rule 4.14	Amended by Ordinance No 61, 2002.
Rule 4.16	Amended by Ordinance No 38, 2014.
Rule 4.17	Amended by Ordinance No 38, 2014.
Rule 4.18	New rule inserted by Ordinance No 38, 2014.
Rule 5.3	Amended by Ordinance No 61, 2002.
Rule 5.4	Amended by Ordinances Nos 61, 2002; 38, 2014 and 44, 2016.
Rule 5.5	Amended by Ordinances Nos 61, 2002 and 44, 2016.
Rule 5.6	Amended by Ordinance No 38, 2014.
Rule 5.7	Amended by Ordinance No 38, 2014.
Rule 6.1	Amended by Ordinance No 38, 2014.
Rule 6.2	Amended by Ordinance No 38, 2014.
Rule 6.3	Amended by Ordinance No 38, 2014.
Rule 6.8	New rule inserted by Ordinance No 38, 2014.



## **Assistant Ministers Ordinance 1990**

(Reprinted under the Interpretation Ordinance 1985.)

The Assistant Ministers Ordinance 1990 as amended by the Assistant Ministers Ordinance 1990 Amendment Ordinance 2000 and the Presbyter (Amendment of Terminology) Ordinance 2006.

### **Table of Provisions**

Clause	
1	Citation
2	Definition of terms
3	Tenure
4	Responsibility of parish council
5	Undertaking by minister
6	Procedure on occurrence of vacancy
7	Repeal of Deacons Ordinance 1988

\*\*\*\*\*

### **Long Title**

An Ordinance to provide for tenure of office of assistant ministers.

### **Preamble**

Whereas it is expedient to repeal the Deacons Ordinance 1988 and to make further provision for the tenure of deacons and presbyters appointed to assist ministers of parishes.

Now the Synod of the Diocese of Sydney ordains as follows -

### **Citation**

1. This Ordinance may be cited as the "Assistant Ministers Ordinance 1990".

### **Definition of terms**

2. (1) A word or an expression defined in clause 1 of the Deaconesses, Readers and Other Lay Persons Ordinance 1981 shall have the same meaning where used in this Ordinance.

- (2) In this Ordinance -

“assistant minister” means a deacon or presbyter licensed or authorised by the Archbishop to the office of assistant minister in a parish and does not include a senior assistant minister;

“senior assistant minister” means -

- (a) a deacon or presbyter who has served -

- (i) as an assistant minister in the Diocese; or
- (ii) in an equivalent office in another Diocese,

for a period of at least 4 years or periods, which in aggregate, total at least 4 years and who is licensed or authorised by the Archbishop, at the request of the minister and the parish council of the parish, to the office of senior assistant minister in the parish; or

- (b) a deacon or presbyter who has served -

- (i) as a minister in the Diocese; or
- (ii) in an equivalent office in another Diocese,

who is licensed or authorised by the Archbishop, at the request of the minister and the parish council of the parish, to the office of senior assistant minister in the parish.

### **Tenure**

3. (1) An assistant minister or a senior assistant minister holds office subject to -

- (a) the terms of his or her licence or authority; and
- (b) where the assistant minister or the senior assistant minister is entitled to or is paid a stipend or is entitled to any other emolument or perquisite - due notice of the termination of the payment of such stipend or entitlement to such emolument or perquisite given by or on behalf of the person or persons who pay or provide the same.

- (2) For the purposes of clause 3(1)(b) notice is due notice if -
- (a) in the case of an assistant minister, the period of notice is at least 3 months; and
  - (b) in the case of a senior assistant minister, the period of notice is the longest of-
    - (i) 3 months; or
    - (ii) the period of notice, to a maximum period of 9 months, calculated at the rate of one month's notice for each year (or part thereof) of continuous service as assistant minister or senior assistant minister, or both, in that parish; or
    - (iii) such other period of notice, if any, (not being less than 3 months), which, at the time the senior assistant minister was licensed or authorised as senior assistant minister, was agreed for the purposes of this clause between the senior assistant minister and -
      - (A) the Archbishop; and
      - (B) the minister of the parish; and
      - (C) the parish council of the parish; and
      - (D) if the person or persons who pay or provide the stipend or other emolument or perquisite is not or are not the minister of the parish or the parish council of the parish - the person or persons who pay or provide the same.
- (3) Notice must not be given to a senior assistant minister under clause 3(1)(b) -
- (a) without prior consultation with the parish council of the parish to which the senior assistant minister is licensed or authorised; or
  - (b) during the period of 3 months after the date on which a new minister is licensed or appointed to the parish.

#### **Responsibility of parish council**

4. Where an assistant minister or senior assistant minister is appointed to assist the minister in a parish with the assent of the parish council thereof, it is the responsibility of that parish council to raise such moneys as may be needed to pay the stipend and provide any other emoluments or perquisites, other than surplice fees, to be paid or provided for the assistant minister or senior assistant minister until the appointment is terminated.

#### **Undertaking by minister**

5. Nothing in this Ordinance prevents the Archbishop from requiring an undertaking of the minister whom the assistant minister or senior assistant minister will assist concerning the work to be undertaken by the assistant minister or the senior assistant minister, as the case may be, or any other matter relating to the office to be exercised by the assistant minister or the senior assistant minister, as the case may be.

#### **Procedure on occurrence of vacancy**

6. (1) Should a vacancy occur in a parish an assistant minister ceases to hold office in that parish on the 90th day after the new minister is licensed to that parish unless -
- (a) the assistant minister has resigned or terminated the appointment within the 90 days; or
  - (b) the new minister has applied to the Archbishop for continuation of the assistant minister's licence or authority and an appropriate agreement has been entered into between the new minister and the assistant minister.
- (2) Subject to clause 3, the term of office of a senior assistant minister does not cease by reason only of a vacancy occurring in the parish or upon a new minister being licensed or appointed to the parish and, in accepting a licence or appointment to the parish, the new minister is taken to have -
- (a) adopted any obligation on the part of a former minister of the parish expressed in the senior assistant minister's licence or authority as if the new minister was named in the licence or authority as the person subject to that obligation; and
  - (b) adopted any agreement in relation to the office of the senior assistant minister made between the former minister and the senior assistant minister with the approval of -
    - (i) the Archbishop; and
    - (ii) the parish council of the parish; and

- (iii) if the senior assistant minister is entitled to or is paid a stipend or is entitled to any other perquisite and the person or persons who pay or provide the same is not or are not the minister of the parish or the parish council of the parish - the person or persons who pay or provide the same.

**Repeal of Deacons Ordinance 1988**

7. The Deacons Ordinance 1988 is repealed but any action taken under that Ordinance is hereby deemed to have been taken under this Ordinance.

---

**Table of Amendments**

Preamble	Amended by Ordinance No 16, 2006.
Clause 2	Amended by Ordinances Nos 26, 2000 and 16, 2006.
Clause 3	Omitted and new clause inserted by Ordinance No 26, 2000.
Clause 4	Amended by Ordinance No 26, 2000.
Clause 5	Amended by Ordinance No 26, 2000.
Clause 6	Amended by Ordinance No 26, 2000.



## Discipline Ordinance 2006

(Reprinted under the Interpretation Ordinance 1985.)

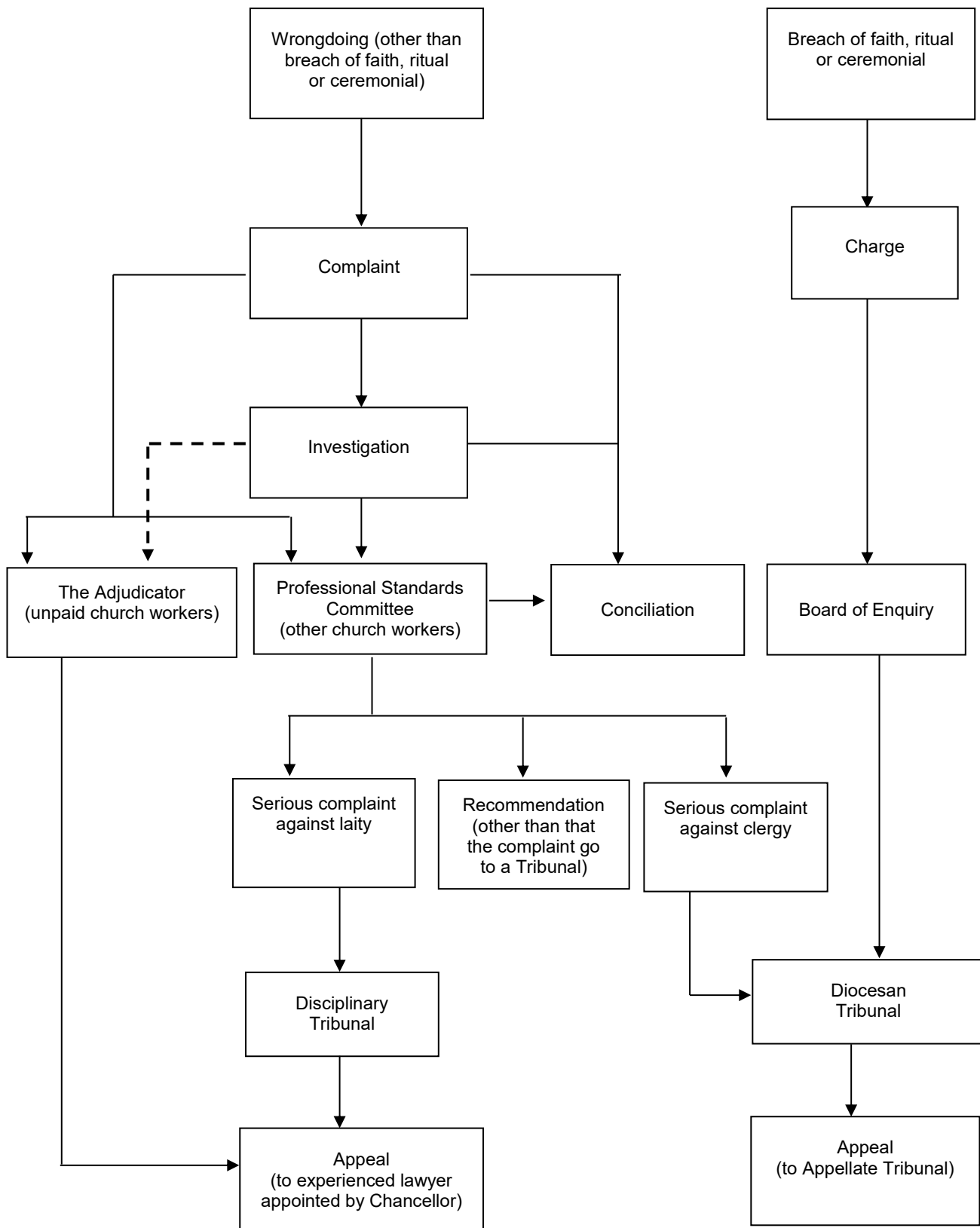
The Discipline Ordinance 2006 as amended by the Discipline Amendment Ordinance 2007, the National Register (Access and Disclosure) Ordinance 2008, the Discipline Amendment Ordinance 2009, the Discipline Ordinance 2006 Amendment Ordinance 2013 and the Discipline Amendment Ordinance 2014.

### Table of Provisions

Chapter 1	Preliminary
Chapter 2	Wrongdoing by church workers (other than breaches of faith, ritual and ceremonial)
Part 1	Complaints
Part 2	Investigation and assessment of complaints
Part 3	Suspension and prohibition orders
Part 4	Reference of complaints to the PSC
Part 5	Costs of responding to a complaint
Chapter 3	Conciliation of complaints
Chapter 4	The Adjudicator
Chapter 5	The Tribunals
Part 1	Introductory
Division 1	<i>Jurisdiction of the Tribunals</i>
Division 2	<i>Charges</i>
Division 3	<i>Proceedings before the Tribunals</i>
Part 2	Review of the decision of a Tribunal
Division 1	<i>The Diocesan Tribunal</i>
Division 2	<i>The Disciplinary Tribunal</i>
Chapter 6	Breaches of faith, ritual and ceremonial
Part 1	Charges
Part 2	The Board of Enquiry
Chapter 7	Exempt conduct
Chapter 8	Miscellaneous
Chapter 9	Administration
Part 1	The Director
Part 2	Professional Standards Committee
Part 3	The Diocesan Tribunal
Part 4	The Disciplinary Tribunal
Part 5	Board of Enquiry
Schedule 1	Diocesan/Disciplinary Tribunal – Charge form
Schedule 2	Diocesan Tribunal – Charge form
Schedule 3	Diocesan Tribunal – Charge form

\* \* \* \* \*

## Diagrammatic Summary of Provisions





**Long title**

An Ordinance to make provision with respect to the standard of conduct and the discipline of church workers.

The Synod of the Diocese of Sydney ordains as follows.

**CHAPTER 1  
PRELIMINARY**

**1. Name**

This Ordinance is the *Discipline Ordinance 2006*.

**2. Definitions**

In this Ordinance –

**Adjudicator** means a person appointed under clause 44.

**Appellate Tribunal** means the Appellate Tribunal constituted by and under Chapter IX of the 1961 Constitution.

**Archbishop** means the Archbishop of the Diocese or, in his absence, his Commissary or, if the See is vacant, the Administrator of the Diocese.

**Board of Enquiry** means the Board of Enquiry appointed under this Ordinance.

**ceremonial** has the same meaning as in the 1961 Constitution.

**Note:** Under section 74(1) of the 1961 Constitution, ceremonial includes ceremonial according to the use of this Church, and also the obligation to abide by such use.

**charge** means a charge under the 1961 Constitution or a charge under this Ordinance.

**child** means a person under the age of 18 years.

**child exploitation material** has the same meaning as in *Faithfulness in Service*.

**chief executive officer** of an organisation constituted by an ordinance of the Synod or the Standing Committee means the person who is responsible to the governing body of the organisation for the work of the organisation.

**child abuse** has the same meaning as in *Faithfulness in Service*.

**Note:** In *Faithfulness in Service*, child abuse means the following conduct in relation to a child –

- bullying
- emotional abuse
- harassment
- neglect
- physical abuse
- sexual abuse, or
- spiritual abuse.

Each of these components of child abuse is further defined in *Faithfulness in Service*.

**church authority** means the Archbishop or a person or body having administrative authority of or in a church body to license, appoint, authorise, dismiss or suspend a church worker.

**church body** includes a parish, school, any body corporate, organisation or association that exercises ministry within, or on behalf of, this Church in this Diocese.

**church worker** means a person who –

- (a) is or has been a member of the clergy, or
- (b) holds or has held any position of leadership within the Diocese and without limiting the generality of the foregoing a position of leadership includes –
  - (i) an office, or
  - (ii) membership of a body incorporated by or under the Bodies Corporate Act, or
  - (iii) a warden, or

- (iv) membership of a parish council, or
- (v) membership of any other board, council or committee established by the Synod, the Standing Committee, a regional council or a parish council, or
- (vi) a chief executive officer of an organisation constituted by an ordinance of the Synod or the Standing Committee, or
- (vii) an officer of the kinds specified in the Parish Administration Ordinance 2008, or
- (viii) an appointment by a rector, a curate-in-charge, churchwarden or parish council or by any delegate or agent of such a person or body of persons,

but excludes a bishop who is subject to the jurisdiction of the Special Tribunal.

**Diocesan Tribunal** means the Diocesan Tribunal constituted for the Diocese in accordance with Chapter IX of the 1961 Constitution and Part 3 of Chapter 9 of this Ordinance.

**Director** means the person appointed for the time being under clause 111.

**disciplinary action** includes a sentence as referred to in Chapter IX of the 1961 Constitution.

**Disciplinary Tribunal** means a Tribunal constituted in accordance with Part 4 of Chapter 9.

**discipline** has the same meaning as in the 1961 Constitution.

**Note:** Under section 74(9) of the 1961 Constitution, in the context of a charge for a breach of discipline in respect of a person in Holy Orders licensed by the Archbishop or resident in the Diocese, discipline means –

- the obligations in the ordinal undertaken by the person, and
- the ordinances in force in the Diocese.

**doctrine** has the same meaning as in the 1961 Constitution.

**Note:** Under section 74(1) of the 1961 Constitution, doctrine means the teaching of this Church on any question of faith.

**elected member** of the Board of Enquiry means a member of the Board of Enquiry elected under clause 136 or appointed under clause 140 to fill a vacancy in the office of a member elected under clause 136.

**elected member** of the Diocesan Tribunal means a member of the Diocesan Tribunal elected under clause 125 or appointed under clause 128 to fill a vacancy in the office of a member elected under clause 125.

**exempt conduct** means conduct that is the subject of a declaration under Chapter 7.

**exercise a function** includes, if the function is a duty, performance of the duty.

**experienced lawyer** means a person –

- (a) who is or has been a judge or justice of an Australian, State or Territorial court or tribunal, or
- (b) who has been admitted as a legal practitioner for not less than 10 years.

**faith** has the same meaning as in the 1961 Constitution.

**Note:** Under section 74(1) of the 1961 Constitution, faith includes the obligation to hold the faith. Under section 74(4), reference to faith extends to doctrine.

**Faithfulness in Service** means the code for personal behaviour and the practice of pastoral ministry by clergy and church workers adopted by the Synod in October 2004 with such amendments as may be adopted from time to time by the Synod.

**function** includes power, authority and duty.

**grooming** has the same meaning as in *Faithfulness in Service*.

**inappropriate pastoral conduct involving a child** means engaging in a pattern of conduct involving a child or a group of children that is inconsistent with the standards and guidelines of *Faithfulness in Service*.

**licence** and **licensed** have the same meanings as in the 1961 Constitution.

**Note:** Under section 74(1) of the 1961 Constitution, licence means a licence under seal of the bishop of a diocese, and licensed has a meaning corresponding with that of licence.

**member of the clergy** means a person in Holy Orders.

**member of this Church** has the same meaning as in the 1961 Constitution.

**Note:** Under section 74(1) of the 1961 Constitution, member of this Church means a baptised person who attends the public worship of this Church and who declares that he or she is a member of this Church and of no Church which is not in communion with this Church.

**National Register** means the National Register established under the National Register Canon 2007.

**parish** has the same meaning as in the 1961 Constitution.

**Note:** Under section 74(1) of the 1961 Constitution, parish includes any parochial district or similar pastoral division constituted by or under ordinance of the synod of a diocese.

In the Parishes Ordinance 1979, "ecclesiastical district" is defined to mean a parish or provisional parish constituted under or recognised as such for the purposes of that ordinance.

Under clause 13(1) of the Recognised Churches Ordinance 2000, the provisions of the Parish Administration Ordinance 2008 which provide for the governance and administration of a single church parish apply in relation to a recognised church as if the meeting place or the ecclesiastical district assigned to the church is a parish and a cure of souls within the Diocese and the minister thereof licensed thereto as incumbent.

**parishioner** has the same meaning as the 1961 Constitution.

**Note:** Under section 74(1) of the 1961 Constitution, parishioner means a member of this Church who is entitled to vote at a meeting of a parish for the election of churchwardens, or who if no such meeting is provided for is at least 18 years of age.

**person under legal incapacity** has the same meaning as in the Civil Procedure Act 2005.

**Note:** Under section 3(1) of the Civil Procedure Act 2005, person under legal incapacity means any person who is under a legal incapacity in relation to the conduct of legal proceedings (other than an incapacity arising under section 4 of the Felons (Civil Proceedings) Act 1981) and, in particular, includes –

- (a) a child under the age of 18 years, and
- (b) an involuntary patient, a forensic patient or a correctional patient within the meaning of the Mental Health Act 2007, and
- (c) a person under guardianship within the meaning of the Guardianship Act 1987, and
- (d) a protected person within the meaning of the NSW Trustee and Guardian Act 2009, and
- (e) an incommunicate person, being a person who has such a physical or mental disability that he or she is unable to receive communications, or express his or her will, with respect to his or her property or affairs.

**Professional Standards Committee** or **PSC** means the Professional Standards Committee established under Part 2 of Chapter 9.

**prohibition order** means an order prohibiting a church worker from holding a specified position or office in or being employed by a church body or church authority or from exercising any specified functions in relation to any office or position in the Diocese or in relation to employment by a church body or church authority.

**Reportable Conduct** means sexual misconduct committed against, with or in the presence of a child, including grooming of a child, or any serious physical assault of a child.

**ritual** has the same meaning as in the 1961 Constitution.

**Note:** Under section 74(1) of the 1961 Constitution, ritual includes rites according to the use of this Church, and also the obligation to abide by such use.

**Safe Ministry Board** means the board constituted under the Safe Ministry Board Ordinance 2001.

**serious offence** means –

- (a) a disqualifying offence listed in Schedule 2 of the *Child Protection (Working with Children) Act 2012*, or
- (b) a registrable offence within the meaning of the *Child Protection (Offenders Registration) Act 2000*.

**serious physical assault** has the same meaning as in the *Child Protection (Working with Children) Act 2012*.

**sexual abuse** has the same meaning as in *Faithfulness in Service*.

**Note:** *In Faithfulness in Service, sexual abuse of an adult means sexual assault, sexual exploitation or sexual harassment of an adult. Sexual abuse of a child means the use of a child by another person for his or her own sexual stimulation or gratification or for that of others. It includes –*

- *sexual touching and fondling;*
- *being forced to touch or fondle another person;*
- *kissing or holding in a sexual manner;*
- *being forced to perform oral sex;*
- *vaginal or anal intercourse;*
- *vaginal or anal penetration with an object or any bodily part;*
- *making any gesture or action of a sexual nature in a child's presence;*
- *making sexual references or innuendo using any form of communication;*
- *voyeurism;*
- *exposure to any form of sexually explicit or suggestive material;*
- *discussion of, or inquiry about, personal matters of a sexual nature;*
- *being forced to masturbate self or others, or watch others masturbate; and*
- *indecent exposure.*

*Sexual abuse of a child does not include –*

- *sex education with the prior consent of a parent or guardian; or*
- *age appropriate consensual sexual behaviour between peers (ie, the same or a similar age).*

**sexual misconduct** has the same meaning as in the *Child Protection (Working with Children) Act 2012*.

**Special Tribunal** means the Special Tribunal constituted by and under Chapter IX of the 1961 Constitution.

**Synod** means the Synod of the Diocese.

**the 1961 Constitution** means the Schedule to the *Anglican Church of Australia Constitution Act 1961*.

**this Church** has the same meaning as in the 1961 Constitution.

**Note:** *Under section 74(1) of the 1961 Constitution, this Church means the Anglican Church of Australia.*

**wrongdoing** means –

- (a) a breach of faith, ritual, ceremonial or discipline, or
- (b) an offence specified by canon, ordinance or rule.

**unpaid church worker** means a lay church worker who does not hold a paid role, office or position in the Diocese at the time a complaint is made against them under this Ordinance.

### **3. Notes**

- (1) Notes in this Ordinance are for explanatory purposes only and do not form part of this Ordinance.
- (2) The Diocesan Secretary is authorised to update the notes when reprinting this Ordinance under clause 8 of the *Interpretation Ordinance 1985*.

**CHAPTER 2**  
**WRONGDOING BY CHURCH WORKERS (OTHER THAN**  
**BREACHES OF FAITH, RITUAL OR CEREMONIAL)**

**Part 1 Complaints**

**4. Complaints relating to offences under s. 54(2) of the 1961 Constitution**

A complaint may be made against a person licensed by the Archbishop, or a person in holy orders resident in the Diocese, alleging that the person has committed or, if a charge is preferred, would at that time have committed –

- (a) an offence specified by the *Offences Ordinance 1962*, or
- (b) an offence under clause 5 of the *Relinquishment of Holy Orders Ordinance 1994*, or
- (c) an offence under section 12 of the Schedule to the *General Synod – Holy Orders, Relinquishment and Deposition Canon 2004 Adopting Ordinance 2005*, or
- (d) an offence under clause 7 of this Ordinance, or
- (e) an offence under clause 9 or 24 of this Ordinance, or
- (f) an offence under clause 36(7) of this Ordinance, or
- (g) an offence under clause 68(3) of this Ordinance.

**Notes:**

(1) *Offences included under the Offences Ordinance 1962 are –*

- (a) *unchastity,*
- (b) *drunkenness,*
- (c) *habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the Bishop of the Diocese,*
- (d) *wilful failure to pay just debts,*
- (e) *conduct, whenever occurring –*
  - (i) *which would be disgraceful if committed by a member of the clergy, and*
  - (ii) *which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report,*
- (f) *sexual abuse,*
- (g) *child abuse,*
- (h) *conviction in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or upwards or the conviction outside New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable,*
- (i) *grooming,*
- (j) *inappropriate pastoral conduct involving a child, and*
- (k) *possession, production or distribution of child exploitation material.*

(2) *The offence under clause 5 of the Relinquishment of Holy Orders Ordinance 1994 is for a person who is regarded as having relinquished his or her holy orders under that Ordinance to hold out that the person continues to hold those orders.*

(3) *The offences under section 12 of the Schedule to the General Synod – Holy Orders, Relinquishment and Deposition Canon 2004 Adopting Ordinance 2005 are –*

- (a) *for a person who has relinquished the exercise of his or her holy orders under section 3 of the Canon to hold out that the person continues to exercise those orders, and*
- (b) *for a person who has been deposed under section 4 of the Canon to hold out that the person remains in holy orders.*

**5. Complaints relating to offences under s. 54(2A) of the 1961 Constitution**

A complaint may be made against a member of the clergy alleging that the member of the clergy has committed an offence of unchastity, an offence involving sexual misconduct or an offence relating to a conviction for a criminal offence that is punishable by imprisonment for 12 months or upward if –

- (a) the conduct of the member of the clergy which gave rise to the complaint is alleged to have occurred in the Diocese, or
- (b) the member of the clergy was licensed by the Archbishop or was resident in the Diocese within 2 years before the complaint is made, or

- (c) the member of the clergy is in prison as a convicted person at the time the complaint is made but within 2 years before such imprisonment was licensed by the Archbishop or was ordinarily resident in the Diocese.

## **6. Complaints against lay church workers**

A complaint may be made against a church worker (not being a person licensed by the Archbishop or a person in holy orders resident in the Diocese) alleging that the person has committed or, if a charge is preferred, would at that time have committed –

- (a) an offence specified by the *Offences Ordinance 1962*, or
- (b) an offence under clause 7 of this Ordinance, or
- (c) an offence under clause 9 or 24 of this Ordinance, or
- (d) an offence under clause 36(7) of this Ordinance, or
- (e) an offence under clause 68(3) of this Ordinance.

**Note:** *Offences included under the Offences Ordinance 1962 are –*

- (a) *unchastity,*
- (b) *drunkenness,*
- (c) *habitual and wilful neglect of the duties of the person's position after written admonition in respect thereof by the appropriate church authority,*
- (d) *wilful failure to pay just debts,*
- (e) *conduct, whenever occurring –*
  - (i) *which would be disgraceful if committed by a person holding the position held by the person against whom the allegation is made or in which the person acts, and*
  - (ii) *which at the time a charge is preferred is productive, or if known publicly would be productive, of scandal or evil report,*
- (f) *sexual abuse,*
- (g) *child abuse,*
- (h) *conviction in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or upwards or the conviction outside New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable,*
- (i) *grooming,*
- (j) *inappropriate pastoral conduct involving a child, and*
- (k) *possession, production or distribution of child exploitation material.*

## **7. Threats, intimidation or inducement**

A person (including a person who may be the subject of a complaint under this Part) who attempts, by threat, intimidation or inducement –

- (a) to dissuade a person from making a complaint, or
- (b) to persuade a person to withdraw a complaint, or
- (c) to persuade a person to consent to the withdrawal of a complaint

commits an offence.

## **8. Who can make a complaint?**

- (1) A complaint may be made by any person, including the Director.
- (2) A complaint may be made by –
  - (a) a person on his or her own behalf, or
  - (b) a person on behalf of a person under legal incapacity.

## **9. Obligation to report knowledge or reasonable belief of certain matters**

(1) A church worker who knows or has reason to believe that another church worker has engaged in conduct which constitutes child abuse, grooming, inappropriate pastoral conduct involving a child or possession, production or distribution of child exploitation material is to report to the Director, as soon as practicable, the name or a description of the other church worker and the grounds for believing that the other church worker has engaged in such conduct.

(2) A person licensed by the Archbishop or a person in holy orders resident in the Diocese who, without reasonable excuse, fails to make a report under subclause (1) commits an offence.

(3) A church worker who holds an authority issued under the Deaconesses, Readers and Other Lay Persons Ordinance 1981 for the purpose of undertaking paid work who, without reasonable excuse, fails to make a report under subclause (1) commits an offence.

#### **10. Complaint by Director on knowledge or reasonable belief of inappropriate conduct**

If the Director knows or has reason to believe that a church worker has engaged in conduct that constitutes an offence specified by canon, ordinance or rule and a complaint has not been made against the person in respect of that conduct, the Director is to make a complaint against the person in respect of that conduct.

#### **11. Person to whom complaint is made**

A complaint is to be made to the Director.

#### **12. Form of complaint**

- (1) A complaint may be made orally or in writing, or partly orally and partly in writing.
- (2) Details of the conduct the subject of the complaint are to be provided with the complaint.
- (3) The Director, or a person nominated by the Director, may assist a person to make a complaint, to provide details of the conduct the subject of the complaint and, if the complaint is required to be verified under subclause (6), to verify the complaint.
- (4) The Director is to reproduce in writing a complaint, or that part of a complaint, that is made orally.
- (5) The Director may require a complainant to provide, within a period of not less than 14 days specified by the Director, further details of the conduct the subject of the complaint and other details that, in the opinion of the Director, may be relevant to the complaint.
- (6) The Director may require a complainant to verify the complaint by statutory declaration within a period of not less than 14 days specified by the Director.

#### **13. Circumstances in which a complaint may be declined or deferred**

- (1) The Director may decline to deal with a complaint if –
  - (a) the person making the complaint has failed to provide details of the conduct the subject of the complaint or any further details required by the Director under clause 12(5), or
  - (b) the complainant has failed to verify the complaint by statutory declaration as required by the Director under clause 12(6), or
  - (c) the complaint is withdrawn under clause 16, or
  - (d) in the case of a complaint against a member of the clergy –
    - (i) the member of the clergy is not licensed by the Archbishop and was not licensed by the Archbishop at the time the conduct the subject of the complaint is alleged to have occurred, or
    - (ii) the member of the clergy is not resident in the Diocese and was not resident in the Diocese within 2 years before the complaint was made, or
    - (iii) the conduct the subject of the complaint did not occur in the Diocese.
- (2) The Director, with the concurrence of the PSC, may decline to deal with a complaint at any time if the PSC is of the opinion that –
  - (a) the complaint is false, vexatious or misconceived or the subject-matter of the complaint is trivial, or
  - (b) there is insufficient evidence to warrant an investigation under Part 2 of this Chapter, or
  - (c) the complaint does not allege any conduct which may be the subject of a complaint under this Part, or
  - (d) the conduct the subject of the complaint is under investigation by some other competent person or body, or
  - (e) there would be no utility in dealing with the complaint under this Ordinance and the complaint does not allege reportable conduct.
- (3) In determining, for the purposes of clause 13(2)(e), whether it is of the opinion that there would be no utility in dealing with the complaint under this Ordinance, the PSC is to consider the practicability and likely effectiveness of the likely recommendation if the complaint is sustained having regard to –
  - (a) whether the respondent currently holds any position of leadership within the Diocese,
  - (b) the length of time since the respondent has held any position of leadership within the Diocese,
  - (c) the age of the respondent,

- (d) the health of the respondent, and
- (e) any other relevant circumstance.

(4) The PSC is to consider, having regard to all of the circumstances, whether any, and if so which, parties should be informed about a decision to decline or defer a complaint under clause 13(2).

(5) The Director may defer consideration of a complaint if the subject matter of the complaint is under investigation by some other competent person or body or is the subject of legal proceedings.

(6) The Director is to record the reasons for declining to deal with a complaint or for deferring consideration of a complaint and is to provide a copy of the record to the PSC.

(7) If the Director declines to deal with a complaint or defers consideration of a complaint, the Director may do all such things as are necessary or convenient to give effect to the decision.

#### **14. Subject-matter of complaint already dealt with**

(1) Subject to subclause (2), no action is to be taken or continued under this Ordinance in respect of a complaint against a person if the Director, with the concurrence of the PSC, determines that the conduct the subject of the complaint is not materially different from conduct already dealt with under –

- (a) this Ordinance, or
- (b) the *Church Discipline Ordinance 1996*, or
- (c) the *Church Discipline Ordinance 2002*, or
- (d) the *Tribunal Ordinance 1962*, or
- (e) a formal investigation or inquiry with the authority of the Archbishop which was commenced prior to the date of assent to the *Church Discipline Ordinance 2002*,

unless, in the opinion of the Director, the complaint is supported by apparently credible evidence of fresh facts likely to lead to a different result.

(2) Notwithstanding subclause (1), action may be taken or continued under this Ordinance in respect of complaints alleging Reportable Conduct for the purpose only of the PSC making a finding under clause 33(2), an Adjudicator making a finding under clause 48 or a Tribunal making a finding under clause 73 that the person against whom the complaint is made has or has not engaged in any or all such conduct the subject of the complaint, except where the NSW Office of the Children's Guardian (or its predecessor) has previously been notified of the conduct and such notification was made in compliance with applicable legislation in force at the time the notification was made.

(3) For the purposes of subclause (2), any prior findings of fact made by the PSC, an Adjudicator or a Tribunal are conclusive.

#### **15. Exempt conduct**

Except in accordance with Chapter 7, no action is to be taken or continued under this Ordinance if the Director, with the concurrence of the PSC, determines that the whole of the conduct concerning which the complaint has been made is exempt conduct.

#### **16. Withdrawal of complaint**

(1) A complainant may, by notice in writing to the Director, withdraw the complaint at any time before the Director refers the complaint to the PSC.

(2) A complaint is also withdrawn if at any time before the Director refers the complaint to the PSC –

- (a) the complainant notifies the Director orally of the complainant's decision to withdraw the complaint, and
- (b) the Director provides the complainant with written confirmation of the withdrawal.

(3) If the Director knows the name and address of a person who is alleged to have been a subject of conduct to which the complaint relates, the complaint cannot be withdrawn without the written consent of the person or the person's representative.

**Note:** *If the complaint is withdrawn, any information about the complaint included on the National Register may be removed from the Register under section 10(1) of the National Register Canon 2007.*

#### **17. Investigation or notification of making of complaint**

(1) After receiving a complaint, the Director may appoint a person to investigate the complaint.

(2) After receiving the investigator's report or if, after receiving a complaint, the Director decides not to appoint a person at that particular time to investigate the complaint, the Director is –



- (a) to notify the substance of the complaint to the person against whom the complaint is made, and
- (b) to request the person to provide a response to the complaint within a period of not less than 21 days specified by the Director, and
- (c) to inform the person generally of the processes under this Ordinance, including the opportunity for conciliation (which may be done by providing the person with a copy of this Ordinance), and
- (d) to advise the person of the possible sanctions that might follow if the allegations in the complaint are proven, and the opportunities for their mitigation or suspension, and
- (e) to caution the person not to make any admissions without the benefit of legal advice.

**Note:** Upon notifying the substance of the complaint to the person against whom the complaint is made, the complaint may become a notifiable complaint for the purposes of the National Register Canon 2007. In this case, section 8 of the Canon requires the Director to notify the General Secretary of certain information about the complaint for inclusion on the National Register within 1 month of having access to that information.

#### **18. Response to complaint**

- (1) A person against whom a complaint is made and who has been provided with a copy of the complaint may respond to the complaint by admitting or denying it in whole or in part.
- (2) A response must be in writing signed by the person against whom the complaint is made or, in the case of a person under legal incapacity, by –
  - (a) a parent or guardian, or
  - (b) a person responsible for the welfare of the person under legal incapacity or acting on his or her behalf.

### **Part 2 Investigation and assessment of complaints**

#### **19. Admission of complaint or substance of complaint – referral of complaint to PSC or the Adjudicator**

If the person against whom the complaint is made admits the complaint or the substance of the complaint, the Director is to refer the complaint to the PSC or, in the case of an unpaid church worker, to the Adjudicator.

#### **20. Non-admission of complaint – appointment of investigator**

If the person against whom the complaint is made denies the complaint, or does not admit the complaint or the substance of the complaint within the period specified by the Director, the Director is to appoint a person to investigate the complaint, unless the complaint has been investigated under clause 17.

#### **21. Investigation of complaint**

A person appointed to investigate a complaint under clause 17 or clause 20 is to investigate the complaint promptly.

#### **22. General functions of investigator**

- (1) For the purposes of an investigation, the investigator is, subject to this clause, to obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the investigator considers necessary or advisable.
- (2) The investigator may require the person making the complaint to verify the complaint by statutory declaration if this has not already been done.
- (3) If the investigator interviews a person, the investigator must allow the person to have another person present with them, being a person who is not a witness to the matters which are the subject of the complaint.
- (4) The investigator is –
  - (a) to make a written record or, with the consent of the person, an audio record, of all interviews with the person, and
  - (b) to provide the person with a copy of the record, and
  - (c) to have the person verify the record by signing a copy of it or, in the case of an audio record, by signing a statement to the effect that the audio record is a true record of the interview.

**23. Responsibility of person against whom complaint is made to co-operate in the investigation**

(1) The investigator may, by notice in writing to the person against whom the complaint is made, require the person –

- (a) to respond to a question or series of questions within the time specified in the notice in relation to any matter relevant to the investigation, and
- (b) to otherwise assist in, or cooperate with the investigation of the complaint in a specified manner.

(2) It is the obligation of a person against whom a complaint is made –

- (a) to answer truthfully any question put by or on behalf of the investigator in the exercise of powers conferred by this Ordinance, and
- (b) not to mislead or obstruct the investigator, and
- (c) not unreasonably to delay the investigator in the exercise of functions conferred by this Ordinance.

**24. Offences in relation to an investigation**

(1) A person licensed by the Archbishop or a person in holy orders resident in the Diocese who, without reasonable excuse, fails to comply with a notice issued under clause 23(1) commits an offence.

(2) A church worker who holds an authority issued under the *Deaconesses, Readers and Other Lay Persons Ordinance 1981* for the purpose of undertaking paid work who, without reasonable excuse, fails to comply with a notice issued under clause 23(1) commits an offence.

(3) A person referred to in subclause (1) or (2) must not mislead or obstruct the investigator in the exercise of powers conferred by this Ordinance. The wilful contravention of this subsection is an offence.

**25. Report of investigation**

The investigator is to make and forward to the Director, without unnecessary delay, a report setting out the results of the investigation together with a copy of all records made as referred to in clauses 22 and 23 and any other relevant material obtained in the course of the investigation.

**26. Revocation of appointment of investigator**

The Director may, by notice in writing, revoke the appointment of an investigator if the investigator fails or refuses to comply with clause 21, 22 or any reasonable requirement of the Director.

**Part 3 Suspension and prohibition orders****27. Recommendation for suspension or prohibition order**

At any time after a complaint is made against a person, the Director may, after giving the person an opportunity to be heard, recommend to the relevant Church authority either or both of the following –

- (a) that the person should be suspended from exercising the functions of office or employment by one or more Church bodies,
- (b) that a prohibition order be made against the person.

**28. Matters to be considered before making a recommendation**

Before making a recommendation under clause 27, the Director is to take the following matters into account –

- (a) the seriousness of the conduct alleged in the complaint,
- (b) the nature of the material to support or negate the complaint,
- (c) whether any person is at risk of harm,
- (d) after consultation with the relevant Church body or its representative, the effect on the person against whom the complaint is made, a relevant Church body and on the Church of acting and of not acting under clause 27,
- (e) any other allegation of conduct similar to that alleged in the complaint previously made to the Director or to an equivalent person or body within the previous 10 years,

and may take into account any other relevant matter.

**29. Giving effect to a recommendation**

The relevant Church authority is authorised to do all such things as may be necessary to give effect to a recommendation made under clause 27.

**30. Termination of suspension or prohibition order**

(1) A suspension or prohibition order made by a Church authority pursuant to a recommendation under clause 27 must be terminated by the Church authority –

- (a) if the Director terminates the investigation without referring the matter to the PSC, or
- (b) upon any direction to that effect given by the PSC, or
- (c) upon the Church authority giving effect to a recommendation of the Adjudicator under clause 47, the Diocesan Tribunal under section 60 (1) of the 1961 Constitution or the Disciplinary Tribunal under clause 74.

(2) A suspension by the Archbishop pursuant to a recommendation under clause 27 must also be terminated by the Archbishop if the Archbishop suspends the person against whom the complaint is made under section 61 of the 1961 Constitution.

### **31. Effect of suspension or prohibition order**

During a suspension or prohibition order pursuant to the provisions of this Part or during a period when a person voluntarily stands down from a position while conduct the subject of a complaint is dealt with under this Ordinance –

- (a) the person against whom the complaint is made must comply with the terms of any prohibition order, and
- (b) the person against whom the complaint is made is ineligible for appointment to any position or function covered by any suspension or prohibition order, and
- (c) the relevant Church authority may fill the vacancy caused by any suspension or prohibition order, or while the person against whom the complaint is made is standing down, and
- (d) the person against whom the complaint is made is entitled to whatever stipend, salary, allowances and other benefits that he or she would otherwise have received and which are to be met or reimbursed from funds under the control of the Synod.

## **Part 4 Reference of complaints to the PSC**

### **32. Action on receipt of investigator's report**

(1) On receipt of the investigator's report in relation to a complaint made against a person who is not an unpaid church worker, the Director must –

- (a) notify the PSC of the identity of the person against whom the complaint is made, and
- (b) furnish the PSC with a copy of all material in the Director's possession relevant to the complaint, including a copy of the investigator's report, and
- (c) request the PSC to provide a written report to the Director within 42 days or such longer period as may be agreed to by the Director at any time.

**Note:** *For complaints made against unpaid church workers see Chapter 4.*

(2) The Director must –

- (a) notify the person against whom the complaint is made that the complaint has been referred to the PSC, and
- (b) furnish the person with a copy of all material in the Director's possession relevant to the complaint, including a copy of the investigator's report, and
- (c) invite the person to provide any further information or material, and to make written representations to the PSC, relating to the complaint, within 28 days or such longer period as may be agreed to by the Director at any time.

### **33. Review of material by the PSC**

(1) The PSC is to review the material furnished to it by the Director and any further information or material provided to it by the person against whom the complaint is made.

(2) If the complaint alleges Reportable Conduct, and the PSC considers that it is unable to make a finding on the material before it that the person has or has not engaged in any or all of such conduct the subject of the complaint, the PSC must recommend –

- (a) if the person is subject to the jurisdiction of the Diocesan Tribunal, that the Archbishop appoint a person to promote a charge against the person before the Diocesan Tribunal, or that the complaint be referred to a body in another diocese with equivalent jurisdiction, or
- (b) if the person is subject to the jurisdiction of the Disciplinary Tribunal, that the Archbishop appoint a person to promote a charge against the person before the Disciplinary Tribunal, or that the complaint be referred to a body in another diocese with equivalent jurisdiction.

**34. Recommendations of the PSC**

(1) After conducting its review, the PSC may make one or more of the following recommendations in relation to the person against whom the complaint is made –

- (a) that the person agree to participate in conciliation, if arrangements for the conciliation of the complaint have not previously been made ,

**Note:** *Chapter 3 makes provision for the conciliation of complaints.*

- (b) that the person make an apology of a kind specified by the PSC,
- (c) that the person make reparation as specified by the PSC for the conduct the subject of the complaint,
- (d) that the person undertake training, or retraining, of a nature specified by the PSC,
- (e) that the person receive counselling of a nature specified by the PSC,
- (f) that the person undertake to the Director, in such terms as are specified by the PSC, any one or more of the following –
  - (i) that he or she will resign from any specified position or office in the Diocese or any specified employment by a church body or church authority,
  - (ii) that he or she will not accept nomination for or appointment to any specified position or office in the Diocese or any specified employment by a church body or church authority,
  - (iii) that he or she will not exercise any specified function or will meet any specified condition or restriction, in relation to any office or position in the Diocese, or in relation to employment by any church body or church authority,
- (g) that the person resign from his or her office or employment, request voluntary relinquishment from holy orders or request voluntary deposition from holy orders, with such admissions and other conditions as the PSC considers appropriate in all the circumstances,
- (h) That the Archbishop appoint a person to promote a charge against the person before the Diocesan Tribunal, or that the complaint be referred to a body in another diocese with equivalent jurisdiction,

**Note:** *As to the persons who are subject to the jurisdiction of the Diocesan Tribunal, see the note to Division 1 of Part 2 of Chapter 5.*

- (i) that the Archbishop appoint a person to promote a charge against the person before the Disciplinary Tribunal, or that the complaint be referred to a body in another diocese with equivalent jurisdiction,

**Note:** *The persons who are subject to the jurisdiction of the Disciplinary Tribunal are church workers who are not subject to the jurisdiction of the Diocesan Tribunal – see clause 52.*

- (j) that the person consent to the relevant Church authority issuing a prohibition order,
- (k) that no further action be taken with respect to the complaint.

(1A) The PSC may only make the recommendations in subclauses 34(1)(h) or (i) if –

- (a) the person is subject to the jurisdiction of the relevant Tribunal,
- (b) in the case of a person subject to the jurisdiction of the Diocesan Tribunal – the PSC is of the opinion that there is a reasonable likelihood that the complaint, if sustained, will result in the relevant Tribunal making a recommendation for the person's deposition from orders, prohibition from functioning or removal from office,
- (c) in the case of a person subject to the jurisdiction of the Disciplinary Tribunal – the PSC is of the opinion that there is a reasonable likelihood that the complaint, if sustained, will result in the Disciplinary Tribunal making a recommendation for a prohibition order against the person or the removal of the person from a specified position or office, and
- (d) the PSC is of the opinion that there is a reasonable likelihood that the complaint will be sustained before the relevant Tribunal.

(2) In making a recommendation, the PSC is to take the following matters into consideration –

- (a) the nature of the complaint and the seriousness of the conduct the subject of the complaint, in particular, whether that conduct comprises a serious offence, child abuse, grooming, inappropriate pastoral conduct involving a child or possession, production or distribution of child exploitation material,
- (b) whether there is more than one complaint,
- (c) whether the complaint alleges more than one incident, or only a single incident,
- (d) when the conduct is alleged to have occurred,

- (e) the circumstances in which the conduct is alleged to have occurred,
  - (f) the ages of the complainant and the person against whom the complaint is made at the time the conduct is alleged to have occurred,
  - (g) if the person against whom the complaint is made –
    - (i) is a member of the clergy – whether the person was a member of the clergy at the time the conduct is alleged to have occurred, or
    - (ii) is not a member of the clergy – the position held or function performed by the person at the time the conduct is alleged to have occurred,
  - (h) whether the evidence of the complainant is corroborated,
  - (i) any views expressed by the complainant as to the desired outcome of the complaint,
  - (j) whether the person against whom the complaint is made has made any reparation for the conduct the subject of the complaint and, if so, the nature and extent of the reparation,
  - (k) any other offences committed by the person against whom the complaint has been made,
  - (l) whether any part of the conduct the subject of the complaint is exempt conduct,
  - (m) the practicability and likely effectiveness of the recommendation,
  - (n) such other matters as the PSC considers relevant.
- (3) The PSC may direct that a suspension or prohibition order made by a Church authority pursuant to a recommendation under clause 27 must be terminated by the Church authority.
- (4) If the PSC considers –
- (a) that the material furnished to it by the Director does not disclose any conduct which may be the subject of a complaint under Part 1 of this Chapter, or
  - (b) that the complaint is false, vexatious or misconceived, or
  - (c) that it is more likely than not that the subject-matter of the complaint did not occur, or
  - (d) that the subject-matter of the complaint is trivial,

the PSC is to recommend that no further action be taken with respect to the complaint.

**Note:** *If the PSC considers that the complaint is false, vexatious or misconceived or that it is more likely than not that the subject-matter of the complaint did not occur, any information about the complaint which has been included on the National Register may be removed from the Register under section 10(1) of the National Register Canon 2007 on the basis that it relates to a notifiable complaint which has been exhausted.*

### **35. Notice of recommendation**

- (1) The PSC is to give notice in writing of its recommendation to the complainant, the person against whom the complaint is made, the Director, the Archbishop and a relevant church authority as soon as practicable after the recommendation is made. Where the PSC makes a recommendation under clause 34(1)(f), (g) or (j), the PSC must include a statement of the reasons for the recommendation.
- (1A) In respect of a recommendation made by the PSC under clause 34(1)(h) or (i), the notice must include a statement that proceedings will be taken against the person in accordance with clause 37.
- (2) In respect of any other recommendation made by the PSC (except a recommendation that no further action be taken with respect to the complaint), the notice must include a statement that if the person against whom the complaint is made –
- (a) does not accept the PSC's recommendation within 14 days after the date of the notice and comply with the recommendation to the satisfaction of the Director, proceedings will be taken against the person in accordance with clause 36, and
  - (b) considers there are good reasons why the recommendation cannot be accepted within 14 days, the person may request that the Director determine a longer period in which the recommendation may be accepted under clause 36(2).
- (3) If any information about the complaint has been included on the National Register, the notice must indicate whether acceptance of and compliance with the PSC's recommendation will result in the information being removed from or retained on the National Register.

### **36. Response to the recommendation**

- (1) If the person against whom the complaint is made, by notice in writing to the Director –
- (a) accepts the recommendation of the PSC within 14 days after the date of the notice of the recommendation, and

- (b) complies with any recommendation under clauses 34(1)(a) to (g) to the satisfaction of the Director, and continues to do so within or throughout any period that the notice issued under clause 35(1) states that the action required by the recommendation is to be undertaken,

no further action is to be taken against the person under this Ordinance in relation to the complaint, except as provided by this clause.

(2) The Director may, in writing, determine a period longer than 14 days within which a recommendation under subclause (1) may be accepted if the Director considers there are good reasons why the recommendation cannot be accepted within 14 days. If the Director determines a longer period, he or she must, as soon as reasonably practicable after making the determination, inform the PSC of the determination together with the reasons for the determination.

(3) If the complaint alleges Reportable Conduct and –

- (a) the person against whom the complaint is made –
  - (i) admits the complaint or the substance of the complaint, or
  - (ii) accepts the recommendation or recommendations of the PSC made under clause 34(1)(a) to (g) and (j), or
- (b) the PSC recommends that no further action be taken with respect to the complaint under clause 34(4)(d),

and the PSC is satisfied that the person has engaged in any or all of the conduct the subject of the complaint, then the PSC must make a finding that the person engaged in that conduct.

(4) If the only recommendation is for the conciliation of the complaint and conciliation is attempted but the parties to the conciliation and the person conducting the conciliation are not satisfied that the subject of the complaint has been properly dealt with by the conciliation, the Director is to refer the complaint to the PSC for a further recommendation under clause 34.

(5) If the person against whom the complaint is made fails to comply with the recommendation to the satisfaction of the Director, including within or throughout any period that the notice issued under clause 35(1) states that the action required by the recommendation is to be undertaken –

- (a) in the case of a person subject to the jurisdiction of the Diocesan Tribunal – the Archbishop is to appoint a person to promote a charge against the person before the Diocesan Tribunal or refer the complaint to a body in another diocese with equivalent jurisdiction, or
- (b) in the case of a person who is subject to the jurisdiction of the Disciplinary Tribunal but is not an unpaid church worker – the Archbishop is to appoint a person to promote a charge before the Disciplinary Tribunal or refer the complaint to a body in another diocese with equivalent jurisdiction.

(6) If the person against whom the complaint is made does not accept the recommendation of the PSC by notice in writing to the Director within 14 days after the date of the notice of the recommendation or such longer period as the Director may determine under subclause (2) –

- (a) in the case of a person subject to the jurisdiction of the Diocesan Tribunal - the Archbishop is to appoint a person to promote a charge against the person before the Diocesan Tribunal or refer the complaint to a body in another diocese with equivalent jurisdiction, or
- (b) in the case of a person subject to the jurisdiction of the Disciplinary Tribunal but is not an unpaid church worker – the Archbishop is to appoint a person to promote a charge before the Disciplinary Tribunal or refer the complaint to a body in another diocese with equivalent jurisdiction.

(7) A person who gives an undertaking to the Director in or substantially in the terms of a recommendation made under clause 34(1)(f) and fails to honour that undertaking commits an offence.

(8) If the PSC makes a recommendation under clause 34(1)(j) that the person consent to the relevant Church authority issuing a prohibition order and the person accepts this recommendation, the relevant Church authority is empowered to issue the prohibition order.

(9) For the avoidance of doubt, this clause 36 does not apply to a recommendation made by the PSC that no further action be taken with respect to the complaint.

**Note:** Section 35(1) of the *Child Protection (Working With Children) Act 2012* imposes a duty on a reporting-body (which includes the Anglican Church in New South Wales, including organisations of dioceses) to notify the Children's Guardian of the name and other identifying particulars of any child-related worker against whom the reporting body has made a finding that the worker has engaged in sexual

*misconduct committed against, with or in the presence of a child, including grooming of a child, or any serious physical assault of a child.*

**37. Recommendation that a complaint be dealt with by a Tribunal**

If the recommendation of the PSC is that the Archbishop appoint a person to promote a charge before the Diocesan Tribunal or the Disciplinary Tribunal, the Archbishop must comply with the recommendation.

**Part 5 Costs of responding to a complaint**

**37A. Reimbursement of costs**

(1) A person who is not an unpaid church worker who provides a response to a complaint under clause 18, responds to a request by an investigator under clause 23 or provides any further information or material, or makes written representations to the PSC under clause 32 may be reimbursed their reasonable costs of obtaining advice and assistance from a legal practitioner.

(2) The person's costs are to be paid by the Synod in accordance with the scale of costs approved for the time being by the Standing Committee on the recommendation of the Director.

**CHAPTER 3****CONCILIATION OF COMPLAINTS****38. Arrangements for conciliation**

- (1) The Director may, with the consent of the complainant and the consent of the person against whom the complaint is made, make arrangements for the conciliation of the complaint.
- (2) Arrangements for the conciliation of a complaint may be made –
  - (a) at any time before the PSC makes a recommendation under clause 34 or, in the case of a complaint referred to an Adjudicator, at any time before the Adjudicator makes a recommendation under clause 47, or
  - (b) if the PSC makes a recommendation that the complaint be the subject of conciliation, at any time after the recommendation is made and before a charge arising from the complaint is promoted before the Diocesan Tribunal or the Disciplinary Tribunal.
- (3) Conciliation cannot be arranged if –
  - (a) the complaint alleges child abuse, grooming, inappropriate pastoral conduct involving a child or possession, production or distribution of child exploitation material and the person alleged to have been abused, groomed or inappropriately treated is still a child, or
  - (b) the complaint alleges sexual abuse which comprises a serious offence, or
  - (c) the conduct the subject of the complaint, if proven, is likely, in the Director's opinion, to result in the imposition of a penalty on the person against whom the complaint is made which comprises or includes either or both of the following –
    - (i) in the case of a person who is a licensed by the Archbishop – the suspension or revocation of the person's licence,
    - (ii) in any case – the issue of a prohibition order against the person.

**39. Conduct of conciliation**

- (1) The conciliation of a complaint is to be conducted by a person appointed by the Director in such manner as the person thinks fit.
- (2) Any other process under this Ordinance which is current at the time when conciliation is commenced or which may be implemented at any subsequent time may be suspended or deferred in accordance with such directions as may be given from time to time by the Director.
- (3) Any such direction has effect according to its terms.

**40. Termination of conciliation**

- (1) The person conducting the conciliation of a complaint may terminate the conciliation at any time.
- (2) The person conducting the conciliation of a complaint must terminate the conciliation if requested to do so by any party to the conciliation.
- (3) The conciliation of a complaint is terminated, unless it is completed or terminated at an earlier time, on the expiration of 2 months after the conciliation commenced to be conducted.

**41. Outcome of conciliation**

- (1) If the parties to a conciliation and the person conducting the conciliation are satisfied that the matter the subject of the complaint has been properly dealt with by the conciliation, no further action is to be taken under this Ordinance with respect to the matter.
- (2) The outcome of a conciliation to which subclause (1) applies is to be recorded in writing and signed by the parties to the conciliation.
- (3) If the parties to a conciliation and the person conducting the conciliation are not satisfied that the matter the subject of the complaint has been properly dealt with by the conciliation, any process which was suspended or deferred under clause 39(2) may be resumed or implemented.

**42. Confidentiality of conciliation**

- (1) A person involved in a conciliation is to treat as confidential all communications, whether written or oral, that take place during the course of the conciliation and those communications cannot be used in –
  - (a) an investigation under this Ordinance, or
  - (b) proceedings before the Diocesan Tribunal or the Disciplinary Tribunal, or
  - (c) a licensing review under the *Parish Relationships Ordinance 2001*, or



- (d) action taken under the *Parish Disputes Ordinance 1999*.
- (2) This clause does not apply to the agreed outcome of the conciliation.
- (3) The agreed outcome of the conciliation is to be recorded by the Director and a copy is to be given to each party to the conciliation and the Archbishop.
- (4) The agreed outcome may be notified by the Director to the Standing Committee of Synod (and by the Standing Committee to the Synod), but the notification must not disclose the names of a party to the conciliation, or any other information that would enable a party to be identified, unless the party has consented to his or her name being disclosed.

## **CHAPTER 4**

### **THE ADJUDICATOR**

#### **43. Application**

(1) Subject to subclause (2), this Chapter applies to complaints made against unpaid church workers to the exclusion of Part 4 of Chapter 2 and Chapter 5.

(2) If the Director considers that a complaint against an unpaid church worker raises substantially the same circumstances as another complaint that has been or will be referred to the PSC, the Director may instead refer the complaint to the PSC for consideration under Part 4 of Chapter 2.

#### **44. Appointment of the Adjudicator**

The Registrar is to promptly appoint an experienced lawyer to be the Adjudicator for a complaint to which this Chapter applies.

#### **45. Action on receipt of an admission or the investigator's report**

- (1) On receipt of an admission under clause 19 or the investigator's report, the Director must –
- (a) notify the Adjudicator of the identity of the respondent, and
  - (b) furnish the Adjudicator with a copy of all material in the Director's possession relevant to the complaint, including a copy of any investigator's report.
- (2) The Director must –
- (a) notify the respondent that the complaint has been referred to the Adjudicator, and
  - (b) furnish the respondent with a copy of all material in the Director's possession relevant to the complaint, including a copy of any investigator's report, and
  - (c) invite the respondent to provide any further information or material, and to make written representations to the Adjudicator, relating to the complaint, within 28 days or such longer period as may be agreed to by the Director at any time.

#### **46. Review of material by the Adjudicator**

- (1) The Adjudicator is to review the material provided by the Director and any further information or material provided by the respondent.
- (2) If the complaint or the substance of the complaint has been admitted by the respondent, the Adjudicator may proceed to make recommendations under clause 47.
- (3) If the complaint or the substance of the complaint has not been admitted by the respondent, the Adjudicator must apply the rules of procedural fairness and otherwise determine a procedure for resolution of the complaint before proceeding to make recommendations under clause 47.

#### **47. Recommendations**

- (1) The Adjudicator is to make one or more recommendations in relation to the respondent and for this purpose may make a recommendation or recommendations to one or both of the following –
- (a) the respondent, and
  - (b) the Archbishop or the relevant church authority.
- (2) For the purposes of clause 47(1)(a) the Adjudicator has the same power to make recommendations as the PSC under clause 34(1) (with the exception of clauses 34(1)(h) and (i)).
- (3) For the purposes of clause 47(1)(b) the Adjudicator has the same power to make recommendations as the Disciplinary Tribunal under clause 74.
- (4) For the avoidance of doubt, if the Adjudicator makes a recommendation under clause 47(1)(a), the Adjudicator is not precluded from making further recommendations in relation to the respondent under clause 47(1)(b).

#### **48. Findings with respect to Reportable Conduct**

If the complaint alleges Reportable Conduct, the Adjudicator must make a finding on whether the person has or has not engaged in any or all of such conduct the subject of the complaint.

#### **49. Costs of responding to a complaint**

The Adjudicator has no power to award costs. The respondent is responsible for meeting their own costs of responding to the complaint.

**50. Review**

- (1) Subject to subclause (2), decisions and recommendations of the Adjudicator are not appellable or subject to review.
- (2) A respondent may make an application for review under clause 81 and for this purpose –
  - (a) the respondent is deemed to meet the qualifying requirements in clause 81(1), and
  - (b) references to the Disciplinary Tribunal in clause 81 are taken to be references to the Adjudicator.

## CHAPTER 5 THE TRIBUNALS

### Part 1 Introductory

**Note:** *This Chapter, in so far as it applies to the Diocesan Tribunal, is made under and for the purposes of the Anglican Church of Australia Constitution Act 1961 and, in particular, Chapter IX (The Tribunals) of the Schedule to that Act. In order to understand more easily the disciplinary scheme that is found partly in that Act and partly in this Ordinance, summaries of the relevant provisions of that Act are included as notes at appropriate places in this Ordinance. As the notes do not necessarily reproduce the exact text of that Act, reference should, where necessary, be made directly to that Act.*

#### 51. Definition

In this Chapter, **the Tribunal** means –

- (a) in the case of a person who is subject to the jurisdiction of the Diocesan Tribunal – the Diocesan Tribunal, and
- (b) in the case of a person who is subject to the jurisdiction of the Disciplinary Tribunal – the Disciplinary Tribunal.

### **Division 1 Jurisdiction of the Tribunals**

#### **What is the nature of the Diocesan Tribunal?**

**Note:** *Section 54(1) of the 1961 Constitution provides that the Diocesan Tribunal is the court of the Archbishop.*

#### **What is the jurisdiction of the Diocesan Tribunal?**

**Note:** *Section 54(2) of the 1961 Constitution provides that the Diocesan Tribunal has jurisdiction to hear and determine charges of breaches of faith, ritual, ceremonial or discipline and of such offences as may be specified by canon, ordinance or rule in respect of –*

- *a person licensed by the Archbishop, or*
- *any other person in holy orders resident in the diocese.*

*Section 54(2A) of the 1961 Constitution provides that the Diocesan Tribunal also has jurisdiction to hear a charge relating to an offence of unchastity, an offence involving sexual misconduct or an offence relating to a conviction for a criminal offence that is punishable by imprisonment for 12 months or more in respect of a member of the clergy if –*

- *the act of the member of the clergy which gave rise to the charge occurred in the Diocese, or*
- *the member of the clergy was licensed by the Archbishop or was resident in the Diocese within 2 years before the charge was laid, or*
- *the member of the clergy is in prison as a convicted person at the time the charge was laid, but within 2 years before imprisonment was licensed by the Archbishop or was ordinarily resident in the Diocese.*

#### 52. What is the jurisdiction of the Disciplinary Tribunal?

The Disciplinary Tribunal has jurisdiction to hear and determine charges brought against church workers who are not subject to the jurisdiction of the Diocesan Tribunal.

### **Division 2 Charges**

**Note:** *By clause 87 of this Ordinance, Divisions 2 and 3 of Part 1 of this Chapter apply to a charge in respect of a breach of faith, ritual or ceremonial in the same way as those Divisions apply to a charge for other wrongdoing except as provided by Chapter 6.*

#### 53. Archbishop's appointee

- (1) The appointment by the Archbishop of a person to make a charge is to be in writing signed by the Archbishop.
- (2) The appointment continues until it is revoked in writing by the Archbishop, unless the appointment is expressed to be for the purpose of making a particular charge or charges or for a specified period of time.

#### 54. What is the form of a charge?

- (1) A charge must state –
  - (a) the wrongdoing that it is alleged the person has committed, and

- (b) particulars of the acts or omissions alleged to constitute the wrongdoing.
- (2) A charge may allege more than one wrongdoing.
- (3) The allegations in the charge must be verified by statutory declaration made by the person or persons making the charge or by any other person or persons.
- (4) A charge must be signed by the person or persons making the charge.
- (5) A charge must include an address within the Diocese for service of documents on the person or persons making the charge.
- (6) A charge may be, but does not have to be, in the form of Schedule 1, Schedule 2 or Schedule 3, to this Ordinance.

#### **55. How is a charge made?**

A charge is made by lodging a copy of the charge at the Registrar's office together with the statutory declaration or declarations verifying the allegations in the charge.

#### **56. Is there a time limit to the making of a charge?**

- (1) Subject to clause 88, there is no time limit to the making of a charge.
- (2) However, the Tribunal, under clause 69, may dismiss a charge for delay in making the charge.

#### **57. Can a charge be withdrawn?**

- (1) The person who has or the persons who have made a charge may, with the consent of the person charged, withdraw the charge at any time before it has been referred to the Tribunal by the Registrar.
- (2) The person who has or the persons who have made a charge may, with the consent of the person charged and of the Tribunal, withdraw the charge at any time after it has been referred to the Tribunal by the Registrar.
- (3) In granting its consent, the Tribunal may direct that a specified person or persons be substituted for the person or persons who made the charge.
- (4) A charge is withdrawn by lodging a copy of the notice of withdrawal at the office of the Registrar.
- (5) The notice of withdrawal is to be signed by the person or persons making the charge and the person charged.
- (6) If a charge is withdrawn, no further proceedings may be taken under this Ordinance in relation to the charge by the person or persons who made the charge.
- (7) However, the withdrawal of a charge does not prevent another person or other persons from making the same or a different charge against the person named in the charge that is withdrawn.

#### **58. Notice of the charge**

As soon as practicable after a charge is made against a person, the Registrar must serve a copy of the charge on the person.

#### **Circumstances in which the Archbishop may suspend a person from office**

##### **Notes:**

- (1) *Suspension before promotion of charge –*

*Section 61(2) of the 1961 Constitution provides that the Archbishop may suspend a person licensed by the Archbishop, or a person in holy orders resident in the Diocese, from the duties of office where –*

- (a) *a charge is proposed to be promoted under this Ordinance, and*
- (b) *the charge will not allege a breach of faith, ritual or ceremonial, and*
- (c) *the charge relates to an offence that is punishable by imprisonment for 12 months or more of which the person has been charged or convicted or in respect of which the Archbishop has received a report from an experienced lawyer stating that there is a prima facie case of the person having committed the offence.*

*Section 61(3) – (6) of the 1961 Constitution provide that the period of suspension must not exceed 28 days from the date of service of the Archbishop's notice of suspension on the person unless the charge is promoted within the period of suspension, in which case the period of suspension continues until the first meeting of the Standing Committee thereafter. The Archbishop may revoke a suspension at any time during its currency. Suspension from the duties of office does not deprive a person from the emoluments appertaining to the office.*

(2) *Suspension following promotion of charge –*

*Section 61(1) of the 1961 Constitution provides that where a charge has been promoted before the Diocesan Tribunal against a person licensed by the Archbishop, the Archbishop, with the concurrence of the Standing Committee, may suspend the person from the duties of his or her office until determination of the charge, or a lesser time. The Archbishop may make such arrangements for the performance of the duties of the office as may be authorised by any canon, ordinance or rule or, in the absence of such canon, ordinance or rule, as the Archbishop deems proper.*

**59. Request for answer to the charge**

(1) The Registrar must serve, with the copy of the charge –

- (a) a request that the person charged lodge an answer to the charge at the Registrar's office within a period of not less than 21 days specified in the Registrar's request, and
- (b) general information concerning the processes under this Ordinance, the possible sanctions that might follow if the charge is proven, and the opportunities for their mitigation or suspension (all of which may be done by providing the person charged with a copy of this Ordinance), and
- (c) a caution not to make any admissions without the benefit of legal advice.

(2) The Registrar may from time to time by notice in writing to the person charged extend the period specified for lodging the person's answer even though the period originally specified or any previous extension has elapsed.

**60. Answer to the charge**

(1) An answer to a charge must be signed by the person charged.

(2) In an answer, the person charged may do either or both of the following –

- (a) admit all or any of the allegations in the charge,
- (b) deny all or any of the allegations in the charge and verify such denial by way of statutory declaration lodged with the answer.

(3) The answer, together with any statutory declaration verifying the denial of all or any of the allegations in the charge, is to be lodged at the Registrar's office.

(4) The Registrar is to send a copy of the answer and any statutory declaration lodged with the answer to the person or persons making the charge.

(5) The Registrar is to notify the person or persons making the charge if the person against whom the charge is made fails to lodge an answer within the requisite period.

(6) A failure by the person against whom the charge is made –

- (a) to admit in an answer any allegation in the charge, or
- (b) to deny in an answer any allegation in the charge and to verify such denial by way of statutory declaration lodged with the answer,

within the requisite period for lodging an answer to a charge is taken to be a denial of the allegation within the requisite period.

**61. What procedure applies if a charge (not relating to faith, ritual or ceremonial) is admitted?**

(1) If any wrongdoing alleged in a charge, or part of a charge, that does not relate to faith, ritual or ceremonial, is admitted within the requisite period for lodging an answer to the charge, the Registrar is to refer the charge, or part, to the Tribunal.

(2) The Diocesan Tribunal is to make a recommendation to the Archbishop concerning the wrongdoing admitted, in accordance with section 60(1) of the 1961 Constitution.

(3) The Disciplinary Tribunal is to make a recommendation to the relevant church authority concerning the wrongdoing admitted in accordance with clause 74.

(4) A recommendation for disciplinary action must not be made without giving the person against whom the recommendation is proposed to be made an opportunity to be heard in relation to the recommendation.

**62. What procedure applies if a charge (not relating to faith, ritual or ceremonial) is denied?**

If any wrongdoing alleged in a charge, or part of a charge, that does not relate to faith, ritual or ceremonial, is denied within the requisite period for lodging an answer to the charge, the charge or part must be referred by the Registrar to the Tribunal.

**63. Right of appearance**

The person charged is entitled to appear before the Tribunal personally or by a legal practitioner.

**Note:** *As to the payment of the costs of legal representatives, see clause 77.*

**64. Prosecution of charges by person appointed by the Director**

- (1) A charge is to be prosecuted by a person appointed by the Director.
- (2) The person appointed by the Director has a right of appearance before the Tribunal.

**65. Directions hearing**

- (1) If any allegation in a charge is denied, the Tribunal may hold a preliminary hearing in order to give directions concerning the conduct of the proceedings and the hearing of the charge.
- (2) At a preliminary hearing, the Tribunal may be constituted by the President or a Deputy President sitting alone.

**66. What happens if the person against whom the charge is made does not appear before the Tribunal?**

If the person against whom a charge is made does not appear before the Tribunal, the Tribunal may hear the charge in the person's absence.

**67. Public hearing**

- (1) A charge is to be heard in public.
- (2) However, the President or, in the absence of the President, the Deputy President –
  - (a) may, at any time, order that a charge, or a specified part of the proceedings before the Tribunal concerning a charge, is to be heard in private, and
  - (b) must order that a charge, or a specified part of the proceedings before the Tribunal concerning a charge, is to be heard in private if requested to do so by 2 other members of the Tribunal.

**68. Suppression of names**

- (1) The Tribunal may order that the name of, or other information that could lead to the identification of the person charged, or a person who appears, or is reasonably likely to appear, before the Tribunal is not to be published or broadcast, except in such circumstances as the Tribunal may authorise.
- (2) An order of the Tribunal does not apply to the publication of a report authorised or required under this Ordinance.
- (3) A church worker who knowingly or recklessly breaches an order made under this clause commits an offence.

**69. Dismissal of charge**

The Tribunal may dismiss a charge if it is of the opinion that the delay in making the charge causes unfairness to the person against whom the charge is made.

**70. Amendment of charge**

- (1) The Tribunal may permit or direct an amendment to the charge, the particulars of the charge or the answer to the charge.
- (2) If an amendment is made to the charge, the particulars of the charge or the answer to the charge, the Registrar is to give notice of the amendment, as soon as practicable after it is made, to the person appointed under clause 64(1), the person charged and the person or persons making the charge.

**71. Onus of proof**

A charge is required to be proved on the balance of probabilities.

**What are the powers of the Diocesan Tribunal concerning the production of evidence?**

**Note:** *Section 9 of the Anglican Church of Australia Constitution Act 1961 and section 62 of the 1961 Constitution provide that, for the purpose of securing the attendance of witnesses and the production of documents and for the examination of witnesses on oath or otherwise, the Diocesan Tribunal is taken to be an arbitrator as referred to in the Commercial Arbitration Act 1984 (NSW) and has power to administer an oath or to take an affirmation from any witness and for the same purpose any party to a proceeding before it or any person permitted by it to submit evidence to it is taken to be a party to a reference or submission to arbitration within the meaning of the Commercial Arbitration Act 1984.*

**72. What are the powers of the Disciplinary Tribunal concerning the production of evidence?**

The Disciplinary Tribunal may receive evidence, examine witnesses and administer oaths and affirmations.

### **73. Other determinations in relation to complaints**

(1) In dealing with a charge which contains any allegation of Reportable Conduct, a Tribunal must before making any other determination or recommendation it is empowered to make, make a finding as to whether the person engaged in any or all of the conduct the subject of each such allegation.

(2) In dealing with a complaint in respect of which information has been included on the National Register, a Tribunal must, after making any other declaration or recommendation that it is empowered to make, determine whether the complaint is false, vexatious or misconceived, or whether it is more likely than not that the subject-matter of the complaint did not occur.

#### **Notes:**

(1) *Section 35(1) of the Child Protection (Working With Children) Act 2012 imposes a duty on a reporting-body (which includes the Anglican Church in New South Wales, including organisations of dioceses) to notify the Children's Guardian of the name and other identifying particulars of any child-related worker against whom the reporting body has made a finding that the worker has engaged in sexual misconduct committed against, with or in the presence of a child, including grooming of a child, or any serious physical assault of a child.*

(2) *If a Tribunal determines that the complaint is false, vexatious or misconceived or that it is more likely than not that the subject-matter of the complaint did not occur, any information about the complaint which has been included on the National Register may be removed from the Register under section 10(1) of the National Register Canon 2007 on the basis that it relates to a notifiable complaint which has been exhausted.*

### **What recommendations may the Diocesan Tribunal make?**

**Note:** *Section 60(1) of the 1961 Constitution provides that the Diocesan Tribunal shall make such recommendation as it thinks just in the circumstances, but shall not recommend any sentence other than one or more of the following –*

- *deposition from orders,*
- *prohibition from functioning*
- *removal from office*
- *rebuke.*

*The Diocesan Tribunal's recommendation is made to the Archbishop.*

### **What action may be taken by the Archbishop concerning the Diocesan Tribunal's recommendation?**

**Note:** *Section 60(2) of the 1961 Constitution provides that the Archbishop is to give effect to the Diocesan Tribunal's recommendation. However, if disciplinary action is recommended, the Archbishop may consult with the Diocesan Tribunal and in the exercise of his prerogative of mercy –*

- *mitigate the disciplinary action, or*
- *suspend its operation, or*
- *mitigate the disciplinary action and suspend its operation.*

*In each case, the Archbishop is to pronounce the disciplinary action recommended even though he mitigates or suspends it.*

*If disciplinary action or mitigated disciplinary action has been suspended and remains suspended for 2 years, the disciplinary action has no operation after the 2-year period.*

### **74. What recommendations may the Disciplinary Tribunal make?**

If the Disciplinary Tribunal determines that a charge has been proved, the Disciplinary Tribunal may make any one or more of the following recommendations to the Archbishop or other relevant church authority –

- (a) that no further action be taken in relation to the complaint,
- (b) that a prohibition order be made against the person in such terms as are specified in the recommendation,
- (c) that the person be removed from a specified position or office,
- (d) such other recommendation as the Disciplinary Tribunal thinks fit.

### **75. What action may be taken by the relevant church authority concerning the Disciplinary Tribunal's recommendation?**



- (1) The Archbishop or other relevant church authority is to give effect to the recommendations of a Disciplinary Tribunal, subject to this Part.
- (2) The Archbishop or other relevant church authority may, after consulting with the Disciplinary Tribunal, in giving effect to a recommendation –
- (a) mitigate its terms, or
  - (b) suspend its implementation, or
  - (c) mitigate its terms and suspend its implementation.
- (3) A recommendation, and any decision made by the Archbishop or other relevant church authority in respect of the recommendation, ceases to have effect if its implementation is deferred for a period of not less than 2 years.

#### **76. Report of finding**

- (1) A determination of the Tribunal, and any recommendation made by the Tribunal, is to be contained in a report –
- (a) that sets out the Tribunal's findings on material questions of fact, and
  - (b) that refers to any evidence or other material on which the Tribunal's findings were based, and
  - (c) that gives the reasons for the Tribunal's determination.
- (2) The Tribunal's report is to be given to the Archbishop, any other relevant church authority, the person or persons making the charge, the person charged and, subject to subclause (3), the Standing Committee.
- (3) In making a report to the Standing Committee where the charge was not found to be proven, the Tribunal should not disclose the name of, or other information that could lead to the identification of, the person charged or a person who appeared before it.

#### **77. Costs**

- (1) If the person against whom the complaint is made is represented by a legal practitioner, the Tribunal may order that the person's costs of the proceedings before the Tribunal are to be paid.
- (2) If the Tribunal makes such an order, the person's costs are to be paid by the Synod in accordance with the scale of costs approved for the time being by the Standing Committee on the recommendation of the Director.

#### **78. Recommendation as to payment of witnesses expenses**

The Tribunal may make a recommendation to the Director for the payment of the expenses, in an amount determined by the Tribunal, of any person who appeared as a witness before the Tribunal.

#### **79. Tribunal procedures**

The Tribunal may, subject to this Ordinance, the rules of procedural fairness and any rules made under clause 80, determine the procedures applicable for the hearing of a charge.

#### **80. Rules**

The Archbishop-in-Council may make rules for the conduct of the business of the Tribunal.

### **Part 2 Review of the decision of a Tribunal**

#### **Division 1 The Diocesan Tribunal**

#### **Can there be an appeal from a determination of the Diocesan Tribunal?**

**Note:** Section 59(4) of the 1961 Constitution provides that –

- the person who brings a charge before the Diocesan Tribunal, if dissatisfied with its determination or recommendation, and
- the person against whom the charge is brought, if dissatisfied with the recommendation or the disciplinary action imposed on that recommendation,

*may appeal to the Appellate Tribunal within 28 days after the making of the determination or recommendation, or the imposing of the disciplinary action, or within such further time as the President of the Appellate Tribunal may in writing allow. In the case of disciplinary action comprising the deprivation of or suspension from office, the Archbishop may, on the lodging of the notice of appeal, if he sees fit, intermit the operation of the disciplinary action.*

*Section 60(4) of the 1961 Constitution provides that the provisions of the Constitution with respect to an appeal from a determination of the Diocesan Tribunal extend to and authorise an appeal from a*

*recommendation or the imposition of disciplinary action but do not extend to a ruling of the Diocesan Tribunal of an interlocutory nature.*

*Section 57(2) of the 1961 Constitution provides that an appeal to the Appellate Tribunal is by way of re-hearing.*

## **Division 2 The Disciplinary Tribunal**

### **81. Application for review**

(1) If the person against whom a charge is made is aggrieved by a decision of the Disciplinary Tribunal that if acted upon by the relevant church authority would, or may have the effect of –

- (a) terminating the person's employment, or
- (b) removing or suspending the capacity of the person to gain income as a church worker,

the person may apply to the Registrar for a review of the decision.

(2) If the person making the charge is aggrieved by a decision of the Disciplinary Tribunal the person may apply to the Registrar for a review of the decision.

(3) The application must be made within 21 days after the applicant receives a copy of the Disciplinary Tribunal's report under clause 76(2) or such longer period as the Registrar may by notice in writing to the aggrieved person determine.

(4) The application must be in writing and set out the grounds for the review.

### **82. Grounds for review**

The grounds on which an application for a review of a decision of the Disciplinary Tribunal may be made are any one or more of the following –

- (a) that a breach of the rules of procedural fairness occurred in relation to the making the decision which materially affected the decision,
- (b) that procedures required to be observed by this Ordinance in relation to the making of the decision were not observed and the non-observance materially affected the decision,
- (c) that the Disciplinary Tribunal did not have jurisdiction to make the decision,
- (d) that the decision was so devoid of any plausible justification that no reasonable Disciplinary Tribunal could have made it.

### **83. Stay of proceedings**

An application for a review of a decision of the Disciplinary Tribunal acts as a stay of the decision pending the determination of the review.

### **84. Appointment of Reviewer**

(1) As soon as practicable after receiving an application for review, the Registrar must notify the Chancellor.

(2) The Chancellor is to appoint an experienced lawyer to undertake the review and notify the Registrar of the appointment.

(3) Upon the appointment of an experienced lawyer, the Registrar is to obtain an estimate of the fee to be charged by the experienced lawyer in making a determination under this Part.

(4) On receipt of the estimate, the Registrar is to notify the applicant for the review of the amount of the estimate and is to request the applicant to pay half of the estimated fee to the Registrar or a person nominated by the Registrar.

(5) If the applicant does not pay half of the estimated fee within 21 days after receipt of the Registrar's request, the application for the review lapses.

### **85. Conduct of review**

(1) A review by an experienced lawyer of the determination of the Disciplinary Tribunal is to be conducted in the manner determined by the experienced lawyer, subject to the process allowing the experienced lawyer to make a determination on the review within a reasonable period after the date that the Registrar receives payment from the applicant for half of the estimated fee.

(2) A review is not to be a re-hearing of the merits, or a new hearing.

(3) The experienced lawyer may make such order as to costs of the review as he or she thinks fit.

### **86. Determination on review**

The experienced lawyer who reviews a determination of the Disciplinary Tribunal may do any one or more of the following –

- (a) quash or set aside the determination,
- (b) refer the determination to the Disciplinary Tribunal for further consideration in accordance with such terms and conditions as the experienced lawyer directs,
- (c) declare the rights of the applicant for the review in relation to any matter to which the determination of the Disciplinary Tribunal relates,
- (d) direct the applicant or the Disciplinary Tribunal to do, or to refrain from doing, anything that the experienced lawyer considers necessary to do justice between the parties.

## CHAPTER 6

### BREACHES OF FAITH, RITUAL AND CEREMONIAL

#### Part 1 Charges

##### Against whom may a charge be made?

###### Notes:

(1) *Section 54(2) of the 1961 Constitution provides that a charge in respect of a breach of faith, ritual or ceremonial may be made against –*

- *a person licensed by the Archbishop, or*
- *any other person in holy orders resident in the Diocese.*

(2) *Clause 3(3)(c) of the Church Ministry Ordinance 1993 makes the failure by a member of this Church (as provided in the 1902 Constitutions) to act in accordance with a provision of a Schedule to that Ordinance an offence. Clause 3(3)(b) of that Ordinance states that, for the purposes of section 54(2) of the 1961 Constitution, the provisions of each Schedule are each a matter of ritual, ceremonial or discipline (as the case may be).*

##### Who may make a charge?

**Note:** *Section 54(3) of the 1961 Constitution provides that a charge in respect of a breach of faith, ritual or ceremonial may be made by –*

- *a person appointed by the Archbishop, or*
- *5 adult communicant members of this Church resident within the Diocese.*

*However, if the charge is made against the incumbent of a parish with respect to a breach alleged to have been committed in the parish, the 5 adult communicant members must be bona fide parishioners of the parish.*

##### 87. Making of charges generally

Except as provided by this Chapter, Divisions 2 and 3 of Part 1 of Chapter 5 apply to a charge in respect of a breach of faith, ritual or ceremonial in the same way as those Divisions apply to a charge for other wrongdoing.

##### 88. Is there a time limit to the making of a charge?

A charge in respect of a breach of faith, ritual or ceremonial must be made within one year after the alleged commission of the breach.

#### Part 2 The Board of Enquiry

##### Reference of charges to the Board of Enquiry

**Note:** *Section 54(3) of the 1961 Constitution provides that, before any charge relating to faith, ritual or ceremonial is heard by the Diocesan Tribunal, it must be referred to the Board of Enquiry appointed by this Ordinance. The charge may proceed to a hearing if the Board allows it as a charge that is proper to be heard.*

##### 89. The role of the Board of Enquiry

(1) The Board of Enquiry is to inquire into a charge or part referred to it in order to determine if the charge or part is one that is proper to be heard by the Diocesan Tribunal.

(2) Evidence and representations before the Board of Enquiry are to be given by means of written statements or statutory declarations.

(3) For the purpose of enabling the Board of Enquiry to exercise its functions under this clause it, may –

- (a) require the person or persons making the charge or invite the person charged to provide, by statutory declaration, information concerning the charge, and
- (b) permit or direct an amendment to the charge or the particulars of the charge or the answer to the charge.

(4) A person who provides a statutory declaration may consent to it being given to any other party. If consent is not given, the Board of Enquiry may disregard the contents of the statutory declaration.

(5) If an amendment is made to the charge, the particulars of the charge, or the answer to the charge, the Registrar is to give notice of the amendment, as soon as practicable after it is made, to the person charged and to the person or persons making the charge.

(6) The Board of Enquiry may dismiss a charge if it is of the opinion that the delay in making the charge causes unfairness to the person charged.

#### **90. Report of the Board of Enquiry**

After inquiring into a charge or part of a charge referred to it, the Board of Enquiry is to report in writing to the Registrar whether or not it is of the opinion that the charge or part is a charge that is proper to be heard by the Diocesan Tribunal.

#### **91. Finding that the charge is a charge that is proper to be heard**

(1) If a majority of the members for the time being of the Board of Enquiry report to the Registrar that they are of the opinion that the charge or part of the charge is a charge that is proper to be heard by the Diocesan Tribunal, the Registrar is –

- (a) to forward the documents relating to the charge and the reports of the members of the Board of Enquiry to the Diocesan Tribunal, and
- (b) to fix a date, time and place for the hearing of the charge or part, and
- (c) to serve notice of the date, time and place fixed for the hearing on the person or persons making the charge and the person charged –
  - (i) personally, or
  - (ii) by posting it in a letter addressed to the person or persons at the residential address of the person or persons last known to the Registrar.

(2) The date fixed for the hearing of a charge or part of a charge must not be less than 30 days after the date of the Registrar's notice.

#### **92. Finding that the charge is not a charge that is proper to be heard**

(1) If a majority of the members for the time being of the Board of Enquiry report to the Registrar that they are of the opinion that the charge or part of the charge is not a charge that is proper to be heard by the Diocesan Tribunal, the Registrar is to send a copy of the reports of the members of the Board of Enquiry to the person or persons who made the charge and the person charged.

(2) No further proceedings may be taken in relation to a charge or part of a charge to which this clause applies.

(3) However, this clause does not prevent another charge being made against the same person.

#### **93. Report to Archbishop**

The Registrar is to provide a copy of each report made to the Registrar under this Part to the Archbishop.

#### **Can there be an appeal from a determination of the Diocesan Tribunal?**

**Note:** Section 54(4) of the 1961 Constitution provides that in matters involving any question of faith, ritual, ceremonial or discipline an appeal lies from the determination of the Diocesan Tribunal to the Appellate Tribunal.

Section 59(4) of the 1961 Constitution provides that –

- the person who brings a charge before the Diocesan Tribunal, if dissatisfied with its determination or recommendation, and
- the person against whom the charge is brought, if dissatisfied with the recommendation or the disciplinary action imposed on that recommendation,

*may appeal to the Appellate Tribunal within 28 days after the making of the determination or recommendation, or the imposing of the disciplinary action, or within such further time as the President of the Appellate Tribunal may in writing allow. In the case of disciplinary action comprising the deprivation of or suspension from office, the Archbishop may, on the lodging of the notice of appeal, if he sees fit, intermit the operation of the disciplinary action.*

*Section 60(4) of the 1961 Constitution provides that the provisions of the Constitution with respect to an appeal from a determination of the Diocesan Tribunal extend to and authorise an appeal from a recommendation or the imposition of disciplinary action but do not extend to a ruling of the Diocesan Tribunal of an interlocutory nature.*

*Section 57(2) of the 1961 Constitution provides that an appeal to the Appellate Tribunal is by way of re-hearing.*

## CHAPTER 7

### EXEMPT CONDUCT

#### 94. Declaration of exemption following disclosure of past conduct

- (1) A person referred to in subclause (2) may make a full disclosure to the Archbishop in writing that the person has engaged in conduct that may be the subject of a complaint under this Ordinance.
- (2) If the disclosure is made –
  - (a) by a person prior to ordination by or on behalf of the Archbishop as a deacon, or
  - (b) by a person who is not ordained prior to being issued with an authority under the *Deaconesses, Readers and Other Lay Persons Ordinance 1981* for the purpose of undertaking paid work, or
  - (c) by a person who has been ordained, otherwise than by or on behalf of the Archbishop, of conduct committed before ordination as a deacon, prior to being first licensed by the Archbishop,

the Archbishop, with the concurrence of the PSC, may declare that the conduct cannot be the subject of a complaint or a charge under this Ordinance.

- (3) A declaration has effect for the purposes of this Ordinance according to its terms.
- (4) If the Archbishop makes a declaration, any information disclosed to the Archbishop for the purposes the declaration is to be treated as Exempt Information for the purposes of the National Register Canon 2007.

**Note:** Under section 8 of the National Register Canon 2007, Exempt Information is not information that is to be notified to the General Secretary for inclusion on the National Register.

#### 95. Circumstances in which a declaration cannot be made

The Archbishop must not make a declaration under this Chapter in respect of a person who has been convicted of a disqualifying offence listed in Schedule 2 of the *Child Protection (Working with Children) Act 2012*.

**Note:** Disqualifying offences in Schedule 2 of the *Child Protection (Working with Children) Act 2012* include the murder or manslaughter of a child, intentional wounding or committing grievous bodily harm to a child, abandonment of a child, serious sex offences, incest, bestiality and offences related to child pornography/child abuse material. In general, these are sex offences or offences involving children which are punishable by imprisonment of 12 months or more.

#### 96. Requirements to be satisfied before a declaration can be made

- (1) The Archbishop must not make a declaration under this Chapter in respect of the conduct of a person unless the Archbishop and the PSC consider that the person –
  - (a) has made any appropriate reparation for the conduct, and
  - (b) does not pose a risk to the safety of any person, and
  - (c) is fit to be ordained, to be issued with an authority or to be licensed by the Archbishop, as the case may be.
- (2) In deciding whether or not a person poses a risk to the safety of any person, the following matters are to be taken into consideration –
  - (a) the circumstances in which the conduct occurred,
  - (b) the seriousness of the conduct,
  - (c) the age of the person at the time of the conduct,
  - (d) the age of each victim at the time,
  - (e) the difference in ages between the person and each victim,
  - (f) the person's criminal record, if any,
  - (g) such other matters as are considered relevant.

#### 97. Effect of refusal to make a declaration

If the Archbishop refuses to make a declaration under this Chapter in respect of the conduct of a person, the person is not entitled for 5 years to apply again for a declaration in respect of that conduct.

## CHAPTER 8

### MISCELLANEOUS

#### 98. Confidentiality of information

A church authority, the Director, a member of the PSC, a person employed or engaged in work related to the functions of the Director or the PSC, a member of the Diocesan Tribunal or the Disciplinary Tribunal and a member of the Board of Enquiry must not divulge information that comes to his or her knowledge by virtue of his or her office or position, except –

- (a) in the course of carrying out the duties of that office or position, or
- (b) as may be authorised by or under this Ordinance, or
- (c) in any proceedings before a diocesan tribunal, a disciplinary tribunal, a provincial tribunal, the Appellate Tribunal or the Special Tribunal, or
- (d) as may be required by law, or
- (e) to any insurer or insurance broker of a church body or church authority where the information may give rise to or be relevant to a claim for indemnity by the church body or church authority against the insurer or is relevant to obtaining or continuing insurance cover.

#### 99. Disclosure by PSC to equivalent bodies in other dioceses

The PSC must disclose to an equivalent body in another diocese relevant details of information in its possession concerning the alleged conduct of a church worker –

- (a) which is information that is relevant to, or arises during the course of, an investigation being undertaken by the PSC where the PSC knows that the church worker is residing in the diocese of the equivalent body, or
- (b) which is information concerning conduct alleged to have occurred in the diocese of the equivalent body,

and is to co-operate with any such equivalent body.

#### 100. Findings of certain other bodies may be treated as conclusive

Any findings made by a disciplinary body of another diocese or a state administrative or judicial body, that have not been overturned on appeal, may be treated as conclusive by a person performing functions under this Ordinance.

#### 101. Effect of prohibition orders

Subject to clause 31, a person who is subject to a prohibition order is, despite the provisions of any other ordinance, ineligible for election or appointment to any position or office to which the order applies, and any such office or position that the person is or was elected or appointed to becomes vacant.

#### 102. Indemnity

The Synod of the Diocese indemnifies a member of the PSC, an Adjudicator, the Diocesan Tribunal, the Disciplinary Tribunal or the Board of Enquiry for an act or omission of the member, PSC, Tribunal or Board in good faith and in the exercise or purported exercise of a function under this Ordinance.

#### 103. Service of documents

- (1) A document required to be served under this Ordinance on a person may be served –
  - (a) personally, or
  - (b) by posting a copy of the document by pre-paid post to the person at the person's proper address.
- (2) The proper address of a person is the address for service of the person but, if the person has no address for service, the person's last known residential address.
- (3) Service of a document that is posted by pre-paid post is taken to be effected 7 days after posting.
- (4) In this clause, service of a document includes the giving of a notice.

#### 104. Exclusion of other bodies

Other than the Board of Enquiry, the Diocesan Tribunal and the Disciplinary Tribunal, no other body is competent to hear or determine a matter relating to a charge made under this Ordinance until –

- (a) a majority of the members for the time being of the Board of Enquiry report to the Registrar that they are of the opinion that the charge is not a charge proper to be heard, or
- (b) the Diocesan Tribunal has dealt with the charge to finality and, if appropriate, the Archbishop has given effect to the Diocesan Tribunal's recommendation relating to the charge, or

- (c) the Disciplinary Tribunal has dealt with the charge to finality and, if appropriate, the relevant church authority has given effect to the Disciplinary Tribunal's recommendation relating to the charge.

#### **105. Rights of employers**

Nothing in this Ordinance affects any right of an employer to terminate the employment of an employee.

#### **106. Repeals**

- (1) The *Tribunal Ordinance 1962* is repealed.
- (2) The *Church Discipline Ordinance 2002* is repealed.

#### **107. Amendment of the Relinquishment of Holy Orders Ordinance 1994**

The *Relinquishment of Holy Orders Ordinance 1994* is amended –

- (a) by omitting from clause 4(1) all the matter following the word 'except' and by inserting instead the words 'the *Discipline Ordinance 2006*.'; and
- (b) by omitting from clause 5 all matter including and following the word 'except' and by inserting instead the words 'and the person shall, in relation to the holding out, be taken to be a person in holy orders for the purposes of the *Discipline Ordinance 2006*.'.

#### **108. Amendment of the Offences Ordinance 1962**

The *Offences Ordinance 1962* is amended by omitting clause 3 and inserting instead the following –

##### **"Specified offences**

3. (1) The following are specified as offences for which a charge may be heard and determined by the Diocesan Tribunal (in addition to those specified by canon) –
- (a) Sexual abuse.
- (b) Child abuse.
- (c) Conviction in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or upwards or a conviction outside New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

##### **Notes:**

(1) *Other offences for which a charge may be heard and determined by the Diocesan Tribunal are –*

- *an offence under Clause 5 of the Relinquishment of Holy Orders Ordinance 1994, and*
- *an offence under clause 12 of the General Synod – Holy Orders, Relinquishment and Deposition Canon 2004 Adopting Ordinance 2005, and*
- *an offence under clause 9 or 24 of the Discipline Ordinance 2006.*

(2) *Section 54(2) of the 1961 Constitution provides that a charge in respect of a breach of faith ritual or ceremonial may be made against a person licensed by the Archbishop or any other person in holy orders resident in the Diocese.*

(3) *Clause 3(3)(c) of the Church Ministry Ordinance 1993 makes the failure by a member of this Church (as provided in the 1902 Constitutions) to act in accordance with a provision of a Schedule to that Ordinance an offence. Clause 3(3)(b) of that Ordinance states that, for the purposes of section 54(2) of the 1961 Constitution, the provisions of each Schedule are each a matter of ritual, ceremonial or discipline (as the case may be).*

(2) The following are specified as offences for which a charge may be heard and determined by the Disciplinary Tribunal –

- (a) Unchastity.
- (b) Drunkenness.
- (c) Habitual and wilful neglect of the duties of the person's position after written admonition in respect thereof by the appropriate church authority.
- (d) Wilful failure to pay just debts.
- (e) Conduct, whenever occurring –
- (i) which would be disgraceful if committed by a person holding the position held by the person against whom the allegation is made or in which the person acts, and



- (ii) which at the time the charge is preferred productive, or if known publicly would be productive, of scandal or evil report.
- (f) Sexual abuse.
- (g) Child abuse.
- (h) Conviction in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or upwards or a conviction outside New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

**Note:** Other offences for which a charge may be heard and determined by the Disciplinary Tribunal are offences under clauses 9 and 24 of the Discipline Ordinance 2006.

(3) For the purposes of subclauses (1) and (2), 'church authority', 'Diocesan Tribunal', 'Disciplinary Tribunal', 'sexual abuse' and 'child abuse' have the same meanings as in the Discipline Ordinance 2006."

### 109. Savings and transitional provisions

- (1) Nothing in this Ordinance affects any proceeding commenced, but not completed, before the date on which this Ordinance commences under the *Tribunal Ordinance 1962* or the *Church Discipline Ordinance 2002* and any such proceeding may be continued and completed as if this Ordinance had not been made.
- (2) The repeal of the *Tribunal Ordinance 1962* does not affect or invalidate any act done or election or appointment made under that Ordinance.
- (3) All persons elected or appointed under the *Tribunal Ordinance 1962* and holding office immediately before the repeal of that Ordinance are to remain in office as if they had been elected or appointed under this Ordinance, except as provided by this clause.
- (4) If the persons remaining in office pursuant to subclause (3) who are elected to be members of the Diocesan Tribunal do not include a woman then, as soon as practicable after the commencement of this Ordinance, the Standing Committee may appoint a woman as an additional member of the Diocesan Tribunal and, subject to clause 127, such person holds office until the first session of the 48<sup>th</sup> Synod.
- (5) The persons remaining in office pursuant to subclause (3) are taken to be members of the Disciplinary Tribunal while holding office as members of the Diocesan Tribunal.
- (6) The supplemental list for the Diocesan Tribunal and the supplemental list for the Board of Enquiry are abolished.
- (7) The lay persons elected or appointed as members of the Board of Enquiry under the *Tribunal Ordinance 1962* and holding office immediately before the repeal of that Ordinance cease to hold office on that repeal.
- (8) As soon as practicable after the date on which this Ordinance commences, the Standing Committee is to elect, out of the lay persons who cease to hold office under subclause (7), 2 persons to be members of the Board of Enquiry. If, at the time of the election, there are 2 or less lay persons eligible for election, any such lay person who is eligible for election is taken to be elected under this subclause and any other lay person or lay persons necessary to be elected to constitute the Board of Enquiry may be elected by the Standing Committee.
- (9) The person holding office as the Director under the *Church Discipline Ordinance 2002* immediately before the date on which this Ordinance commences is taken to have been appointed as the Director under this Ordinance and holds office on the same terms and conditions as those which applied immediately before the repeal of the *Church Discipline Ordinance 2002*.
- (10) A declaration made under clause 18 of the *Church Discipline Ordinance 2002* is taken to have been made under Chapter 7 of this Ordinance.
- (11) This Ordinance extends to conduct occurring before the date on which this Ordinance commences.

### 110. Commencement

Except for this clause, this Ordinance commences on a date declared by the Standing Committee by resolution.

**CHAPTER 9****ADMINISTRATION****Part 1 The Director****111. The Director**

- (1) The Archbishop, taking into account any recommendation of the Safe Ministry Board, may appoint a suitably qualified person to be the Director for the purposes of this Ordinance.
- (2) Any person who is the Director and is a member of the Safe Ministry Board at the time a recommendation is made to the Archbishop under subclause (1) must not vote or speak as a member of the Safe Ministry Board in relation to the making of the recommendation.
- (3) The Director is to be appointed on such terms and conditions as the Archbishop determines.
- (4) If, for any reason, the Director is unable or unwilling to exercise or perform any power, authority, duty or function of the Director under this Ordinance, the Archbishop may appoint another suitably qualified person to exercise or perform the power, authority, duty or function.

**112. Relationship between the Director and the Archbishop**

- (1) The Director is to inform the Archbishop of –
  - (a) any information known to the Director, or any reasonable belief held by the Director, that a church worker has engaged in conduct which may be the subject of a complaint, and
  - (b) any response made by a church worker to an allegation that is, or could be, the subject of a complaint.
- (2) The Director is to provide the Archbishop with such further information as the Archbishop may reasonably require.
- (3) The Archbishop is to provide the Director with such information as the Director may reasonably require.

**113. The Director's entitlement to information held by certain persons**

A person who, or body which, appointed a church worker to an office or position held by the church worker during any period relevant for the purposes of an allegation made against the church worker that is, or could be, the subject of a complaint is to provide the Director with such information as the Director may reasonably require.

**114. The Director to report annually to the Standing Committee**

Before 31 August each year, the Director is to make a report to the Standing Committee as to the action taken under this Ordinance during the period of 12 months ending on the preceding 30 June and provide a copy of the report to the Safe Ministry Board.

**Part 2 The Professional Standards Committee****115. Establishment of the PSC**

There is to be a Professional Standards Committee for the Diocese.

**116. Appointment of members**

- (1) The Archbishop-in-Council is to appoint at least 3 persons to be the members of the PSC.
- (2) The persons appointed as members of the PSC are to include –
  - (a) an experienced lawyer, and
  - (b) a person who has been a member of the clergy for not less than 10 years, and
  - (c) a person who is certified by the Safe Ministry Board as having other qualifications or experience appropriate to the discharge of the office of a member of the PSC, such as child protection, social work or psychiatry.
- (3) The PSC is to include at least one person who is not a member of this Church and, so far as it is reasonably practicable, is to have an equal number of men and women.

**117. Term of office**

Subject to clause 118, a member of the PSC holds office until the first meeting of the Standing Committee which next follows the first day of the first ordinary session of the next Synod provided that the member continues to hold office until his or her successor is appointed.

**118. Casual vacancies**

- (1) The office of a member of the PSC is vacated if –
  - (a) the member –
    - (i) dies, or
    - (ii) resigns by notice in writing to the Diocesan Secretary, or
    - (iii) becomes mentally incapacitated, or
    - (iv) becomes an insolvent under administration, or
    - (v) ceases to reside permanently in the Diocese, or
  - (b) the Archbishop-in-Council revokes the appointment.
- (2) The Archbishop-in-Council may fill a casual vacancy in the office of a member of the PSC.

#### **119. Chair**

- (1) The Archbishop-in-Council is to appoint one of the members of the PSC to be the chair of the PSC.
- (2) The chair is to preside at all meetings of the PSC at which he or she is present.
- (3) In the absence of the chair, the members present at a meeting are to elect a member to be the chair.
- (4) At meetings of the PSC, the chair has a deliberative vote only.

#### **120. Meetings**

- (1) The PSC may meet from time to time as determined by the chair or a majority of the members.
- (2) The PSC may conduct its business in such manner as it thinks fit.
- (3) Without limiting subclause (2), the PSC may conduct its business by telephone or electronic communication.
- (4) The Director is entitled to attend and speak at meetings of the PSC.

#### **121. Quorum**

A majority of the members for the time being of the PSC constitutes a quorum at a meeting of the PSC.

#### **122. Decisions**

- (1) A decision of the majority of the members of the PSC at a meeting at which a quorum is present is a decision of the PSC.
- (2) A decision taken other than at a meeting of the PSC, if supported by a majority of the members of the PSC, is a decision of the PSC.

### **Part 3 The Diocesan Tribunal**

#### **Constitution of the Diocesan Tribunal**

**Note:** Section 53 of the 1961 Constitution provides that there is to be a Diocesan Tribunal for the Diocese.

#### **Who are the members of the Diocesan Tribunal?**

**Note:** Section 54(1) of the 1961 Constitution provides that the Diocesan Tribunal is to consist of –

- a president (who is to be the Archbishop) or a deputy president appointed by the Archbishop, and
- not less than 2 other members as may be prescribed by ordinance of the Synod of the Diocese.

#### **123. Archbishop's appointment of the Deputy President**

- (1) A person is qualified for appointment as the Deputy President if the person is an experienced lawyer.
- (2) The appointment by the Archbishop of the Deputy President is to be in writing signed by the Archbishop.
- (3) The appointment continues until it is revoked in writing by the Archbishop unless the appointment is expressed to be for the purpose of hearing a particular charge or charges or for a specified period of time.

#### **124. Constitution of the Diocesan Tribunal for the purpose of hearing and determining a charge**

- (1) Subject to subclauses (2) and (3), for the purpose of hearing and determining a charge the Diocesan Tribunal is to be constituted by –
  - (a) the President or the Deputy President, and
  - (b) one member of the Diocesan Tribunal who is a member of the clergy appointed by the Registrar, and

(c) one member of the Diocesan Tribunal who is a lay person appointed by the Registrar.

(2) For the purpose of hearing and determining a charge alleging an offence of child abuse or sexual abuse or an offence under clause 9, the Diocesan Tribunal is to include at least one man and one woman.

(3) For the purpose of hearing and determining a charge alleging a breach of faith, ritual or ceremonial, the Diocesan Tribunal may be constituted by all its members.

(4) Nothing in this clause affects clause 65.

#### **125. Election of members**

(1) During the first session of each Synod, the members of Synod voting collectively are to elect 5 members of the clergy, each of whom has been a member of the clergy for not less than 10 years, and 5 lay persons to be members of the Diocesan Tribunal.

(2) The members of the Diocesan Tribunal elected by the Synod must include at least two experienced lawyers and at least two men and two women.

#### **126. Term of office**

(1) An elected member of the Diocesan Tribunal holds office until the member's successor is elected or until the office is vacated.

(2) However, if a member's successor is elected after the Diocesan Tribunal has commenced hearing a charge and before the Diocesan Tribunal's recommendation concerning the charge is made, the member continues to hold office until the recommendation is made.

#### **127. Casual vacancies**

The office of an elected member of the Diocesan Tribunal is vacated if –

- (a) the member –
  - (i) dies, or
  - (ii) resigns by notice in writing given to the Diocesan Secretary, or
  - (iii) becomes mentally incapacitated, or
  - (iv) becomes an insolvent under administration, or
  - (v) ceases to reside permanently in the Diocese, or
- (b) the Standing Committee declares, by resolution with a majority of not less than two-thirds of the members of the Standing Committee present and entitled to vote, the member's office to be vacated because of the member's refusal, neglect or inability to perform functions as a member or because of any other reason so declared.

#### **128. How are casual vacancies filled?**

(1) The Standing Committee is to appoint a member of the clergy or a lay person (as the case requires) to fill a casual vacancy in the office of an elected member of the Diocesan Tribunal.

(2) A person appointed under this clause holds office for the balance of his or her predecessor's term of office, subject to clauses 126(2) and 127.

#### **129. Ineligibility of members of the Board of Enquiry**

A person who is a member of the Board of Enquiry is not eligible to be a member of the Diocesan Tribunal.

#### **130. Disqualification of certain members from hearing charges**

(1) An elected member is disqualified from hearing a charge that concerns the member or where the member is the person or a person who has made a charge.

(2) If an elected member is disqualified under this clause, a person is to be appointed for the purpose only of hearing the particular charge in the same way as if the disqualified member had vacated office.

#### **131. Decision of the Diocesan Tribunal**

A decision supported by a majority of the votes of the members who constitute the Diocesan Tribunal is a decision of the Diocesan Tribunal.

#### **132. Voting on certain questions of evidence or procedure**

The President or, in the absence of the President, the Deputy President has a casting vote as well as a deliberative vote if voting on a question of evidence or procedure is equal.

## Part 4 Disciplinary Tribunal

### 133. Members of Disciplinary Tribunal

The members of the Disciplinary Tribunal are the members for the time being of the Diocesan Tribunal and include a person appointed by the Archbishop as Deputy President of the Diocesan Tribunal.

### 134. Establishing a Disciplinary Tribunal

- (1) The Registrar may establish a Disciplinary Tribunal to hear and determine a charge.
- (2) Subject to subclauses (3) and (4), a Disciplinary Tribunal comprises 3 members appointed by the Registrar.
- (3) The members of a Disciplinary Tribunal must include –
  - (a) an experienced lawyer who is to be the chairperson of the Disciplinary Tribunal, and
  - (b) a member of the clergy.
- (4) For the purposes of hearing and determining a charge alleging an offence of child abuse or sexual abuse or an offence under clause 9, the Disciplinary Tribunal is to include at least one man and one woman.

### 135. Notice of establishment of Disciplinary Tribunal

- (1) The Registrar is to give written notice of the establishment of a Disciplinary Tribunal to the complainant or complainants and the person against whom the complaint, or each complaint, is made as soon as practicable after the Disciplinary Tribunal is established.
- (2) The Registrar is to provide the Disciplinary Tribunal and the person against whom the complaint, or each complaint, is made with particulars of the complaint or complaints.

## Part 5 Board of Enquiry

### 136. Election of members

During the first session of each Synod, the members of Synod voting collectively are to elect 1 member of the clergy and 2 lay persons to be members of the Board of Enquiry.

### 137. Appointment of members

- (1) The Archbishop is to appoint 1 member of the clergy and 1 layperson to be members of the Board of Enquiry.
- (2) Each appointment is to continue until revoked in writing by the Archbishop unless the appointment is expressed to be for the purpose of hearing a particular charge or charges or for a specified period of time.

### 138. Term of office

- (1) A member of the Board of Enquiry holds office until the member's successor is appointed or elected or until the office is vacated.
- (2) However, if a member's successor is appointed or elected after the Board of Enquiry has commenced an inquiry into a charge or part of a charge and before the Board of Enquiry's report of its inquiry is made, the member continues to hold office until the report is made.

### 139. Casual vacancies

The office of a member of the Board of Enquiry is vacated if –

- (a) the member –
  - (i) dies, or
  - (ii) resigns by notice in writing to the Diocesan Secretary, or
  - (iii) becomes mentally incapacitated, or
  - (iv) becomes an insolvent under administration, or
  - (v) ceases to reside permanently in the Diocese, or
- (b) in the case of a member elected by Synod, the Standing Committee declares, by resolution with a majority of not less than two-thirds of the members of the Standing Committee present and entitled to vote, the member's office to be vacated because of the member's refusal, neglect or inability to perform functions as a member or because of any other reason so declared, or
- (c) in the case of a member appointed by the Archbishop, the Archbishop revokes the appointment.

**140. How are casual vacancies filled?**

- (1) In the case of a person elected by Synod, the Standing Committee is to appoint a member of the clergy or a lay person (as the case requires) to fill a casual vacancy in the office of a member of the Board of Enquiry.
- (2) A person appointed under this clause holds office for the balance of his or her predecessor's term of office, subject to clauses 138(2) and 139.

**141. Disqualification of certain members from inquiring into charges**

- (1) A member is disqualified from inquiring into a charge or part of a charge that concerns the member or where the member is the person or a person who has made the charge.
- (2) If a member is disqualified under this clause, a person is to be appointed for the purpose only of inquiring into the particular charge or part of the charge in the same way as if the disqualified member had vacated office.

**142. Quorum**

The quorum for a meeting of the Board of Enquiry is 3 members, one of whom is a member of the clergy and two of whom are lay persons.

**SCHEDULE 1****Diocesan/Disciplinary Tribunal****Charge****(Made by a person appointed by the Archbishop)**

I, \_\_\_\_\_ of \_\_\_\_\_, having been appointed by the Archbishop of Sydney under clause 53 of the *Discipline Ordinance 2006*, claim that  
 of \_\_\_\_\_,  
 being

- \* a person licensed by the Archbishop of Sydney
- \* a person in holy orders resident in the Diocese of Sydney,
- \* a member of the clergy, the act of whom which gave rise to this charge occurred in the Diocese of Sydney
- \* a member of the clergy who was licensed by the Archbishop of Sydney or was resident in the Diocese of Sydney within 2 years before this charge was laid
  - \* a member of the clergy who is in prison as a convicted person at the time this charge is laid, but within 2 years before such imprisonment was licensed by the Archbishop of Sydney or was ordinarily resident in the Diocese of Sydney
- \* a church worker who is not subject to the jurisdiction of the Diocesan Tribunal

has committed

- \* the following offence, namely
- \* a breach of faith/ritual/ceremonial/discipline

particulars of which are:

Signed:

Date:

The address at which documents may be served on the person making this charge is:

\* delete whichever is not applicable.

**SCHEDULE 2**

**Diocesan Tribunal**

**Charge**

**(Made by 5 adult communicant members of the Church resident within the Diocese except where the charge is against an incumbent of a parish and relates to a breach of faith, ritual or ceremonial alleged to have been committed in the parish)**

We,

- |    |    |
|----|----|
| 1. | of |
| 2. | of |
| 3. | of |
| 4. | of |
| 5. | of |

being adult communicant members of the Anglican Church of Australia (within the meaning of the Anglican Church of Australia Constitution Act 1961) resident within the Diocese of Sydney claim that

of , being

\* a person licensed by the Archbishop

\* a person in holy orders resident in the Diocese of Sydney

has committed a breach of faith/ritual/ceremonial/discipline particulars of which are:

Signed:

Date:

The address at which documents may be served on the persons making this charge is:

\* delete whichever is not applicable.



**SCHEDULE 3**  
**Diocesan Tribunal**  
**Charge**

**(Made by 5 adult communicant members of the Church resident within the Diocese where the charge is against an incumbent of a parish and relates to a breach of faith, ritual or ceremonial alleged to have been committed in the parish and where such members are bona fide parishioners of that parish)**

We,

1. \_\_\_\_\_ of \_\_\_\_\_
2. \_\_\_\_\_ of \_\_\_\_\_
3. \_\_\_\_\_ of \_\_\_\_\_
4. \_\_\_\_\_ of \_\_\_\_\_
5. \_\_\_\_\_ of \_\_\_\_\_

being adult communicant members of the Anglican Church of Australia (within the meaning of the Anglican Church of Australia Constitution Act 1961) resident within the Diocese of Sydney and being bona fide parishioners (within the meaning of that Act) of the pastoral division consisting of the Parish/Provisional Parish/Recognised Church of \_\_\_\_\_

claim that \_\_\_\_\_ of \_\_\_\_\_, being \_\_\_\_\_

\* a person licensed by the Archbishop

\* a person in holy orders resident in the Diocese of Sydney

has committed in and while the incumbent of the pastoral division a breach of faith/ritual/ceremonial particulars of which are:

Signed:

Date:

The address at which documents may be served on the persons making this charge is:

\* delete whichever is not applicable.

---

**Notes**

At its meeting on 26 March 2007, the Standing Committee resolved that, pursuant to clause 110, the Ordinance is to commence forthwith on 26 March 2007.

At its meeting on 15 October 2007, the Standing Committee approved a scale of costs for the purposes of clause 77(2).

**Table of Amendments**

Diagrammatic Summary of Provisions	Amended by Ordinance No 33, 2014.
Clause 2	Amended by Ordinances Nos 2, 2008; 44, 2013 and 33, 2014.
Clause 4	Amended by Ordinances Nos 44, 2013 and 33, 2014.
Clause 6	Amended by Ordinances Nos 44, 2013 and 33, 2014.
Clause 7	Amended by Ordinance No 33, 2014.
Clause 9	Amended by Ordinance No 33, 2014.
Clauses 13-15	Amended by Ordinance No 33, 2014.
Clause 16	Amended by Ordinance No 44, 2013.
Clause 19	Amended by Ordinance No 33, 2014.
Clause 30	Amended by Ordinances Nos 27, 2009 and 33, 2014.
Clause 32	Amended by Ordinance No 33, 2014.
Clause 33	Amended by Ordinances Nos 44, 2013 and 33, 2014.
Clause 34	Amended by Ordinances Nos 2, 2008, 27, 2009; 44, 2013 and 33, 2014.
Clause 35	Amended by Ordinances Nos 2, 2008, 27, 2009; 44, 2013 and 33, 2014.
Clause 36	Amended by Ordinances Nos 27, 2009; 44, 2013 and 33, 2014.
Clause 37A	Original clause inserted by Ordinance No 27, 2009 and amended by Ordinances Nos 44, 2013 and 33, 2014.
Clause 37B	Original clause inserted by Ordinance No 27, 2009. Omitted by Ordinance No 33, 2014.
Clause 38	Amended by Ordinance No 33, 2014.
Clause 42	Amended by Ordinance No 44, 2013.
Chapter 4	New Chapter inserted by Ordinance No 33, 2014 with consequential renumbering of existing Chapters 4, 5, 6, 7 and 8.
Clauses 43-50	New clauses inserted by Ordinance No 33, 2014.
Clauses 51-60	Original clauses renumbered by Ordinance No 33, 2014.
Clause 61	Original clause renumbered and amended by Ordinance No 33, 2014.
Clauses 62-69	Original clauses renumbered by Ordinance No 33, 2014.
Clause 70	Original clause renumbered and amended by Ordinance No 33, 2014.
Clauses 71-72	Original clauses renumbered by Ordinance No 33, 2014.
Clause 73	Original clause amended by Ordinances Nos 2, 2008 and 44, 2013 and renumbered by Ordinance No 33, 2014.
Clause 74	Original clause amended by Ordinances Nos 27, 2009 and 44, 2013 and renumbered by Ordinance No 33, 2014.
Clauses 75-76	Original clauses amended by Ordinance No 27, 2009 and renumbered by Ordinance No 33, 2014.
Clauses 77-78	Original clauses renumbered by Ordinance No 33, 2014.
Clause 79	Original clause renumbered and amended by Ordinance No 33, 2014.
Clause 80	Original clause renumbered by Ordinance No 33, 2014.
Clause 81	Original clause renumbered and amended by Ordinance No 33, 2014.
Clauses 82-84	Original clauses renumbered by Ordinance No 33, 2014.
Clause 85	Original clause renumbered and amended by Ordinance No 33, 2014.
Clauses 86-93	Original clauses renumbered by Ordinance No 33, 2014.
Clause 94	Original clause amended by Ordinance No 2, 2008 and renumbered by Ordinance No 33, 2014.
Clause 95	Original clause amended by Ordinance No 44, 2013 and renumbered by Ordinance No 33, 2014.

---

Clause 96	Original clause renumbered by Ordinance No 33, 2014.
Clause 97	Original clause omitted and new clause inserted by Ordinance No 44, 2013. Renumbered further by Ordinance No 33, 2014.
Clauses 98-99	Original clauses renumbered by Ordinance No 33, 2014
Clauses 100-101	New clauses inserted by Ordinance No 33, 2014.
Clause 102	Original clause renumbered and amended by Ordinance No 33, 2014.
Clauses 103-108	Original clauses renumbered by Ordinance No 33, 2014.
Clause 109	Original clause amended by Ordinance No 1, 2007 and renumbered by Ordinance No 33, 2014.
Clauses 110-116	Original clauses renumbered by Ordinance No 33, 2014.
Clause 117	Original clause renumbered and amended by Ordinance No 33, 2014.
Clause 118	Original clause renumbered by Ordinance No 33, 2014.
Clause 119	Original clause renumbered and amended by Ordinance No 33, 2014.
Clause 120	Original clause renumbered by Ordinance No 33, 2014.
Clauses 121-123	Original clauses renumbered by Ordinance No 33, 2014.
Clause 124	Original clause renumbered and amended by Ordinance No 33, 2014.
Clause 125	Original clause amended by Ordinance No 27, 2009 and renumbered by Ordinance No 33, 2014.
Clauses 126-127	Original clauses renumbered by Ordinance No 33, 2014.
Clause 128	Original clause renumbered and amended by Ordinance No 33, 2014.
Clauses 129-139	Original clauses renumbered by Ordinance No 33, 2014.
Clause 140	Original clause renumbered and amended by Ordinance No 33, 2014.
Clauses 141-142	Original clauses renumbered by Ordinance No 33, 2014.
Schedule 1	Amended by Ordinance No 33, 2014.



## Episcopal Standards Canon 2007

### Canon No. 14, 2007<sup>1</sup>

**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.

<sup>1</sup> This Canon was provisionally made as Canon P4, 2004, and was amended and passed in 2007.

- 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
  - (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 sub-section (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 sub-section (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.
- 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.
- 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.
- 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:
- (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
  - (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.



## **General Synod – Canon Concerning Services 1992 Adopting Ordinance 1998**

An Ordinance to adopt Canon No 13, 1998 of the General Synod of the Anglican Church of Australia.

The Synod of the Diocese of Sydney Ordains -

### **Name of Ordinance**

1. This Ordinance is the General Synod - Canon Concerning Services 1992 Adopting Ordinance 1998.

### **Adoption of Canon No 13, 1998**

2. Canon No 13, 1998 of the General Synod of the Anglican Church of Australia, the text of which is set out in the Schedule, is adopted.

### **Schedule**

1. This canon may be cited as "Canon concerning Services 1992".
2. The minister of each church must bring to the knowledge of the people of the suburb, town or locality in which that church is situated, the times and days on which Divine service is to be held in that church.
3. Divine service must be held in every Cathedral and, wherever possible, in the church or one of the churches in every parish at least once on all Sundays.
4. (1) The following forms of service are authorised:
  - (a) the forms of service contained in the Book of Common Prayer;
  - (b) such forms as may have been authorised, as regards a parish, pursuant to the Constitution or a canon of the General Synod in force in the diocese of which that parish is part.(2) Every minister must use only the authorised forms of service, except so far as the minister may exercise the discretion allowed by section 5.
5. (1) The minister may make and use variations which are not of substantial importance in any form of service authorised by section 4 according to particular circumstances.
  - (2) Subject to any regulation made from time to time by the Synod of a diocese, a minister of that diocese may on occasions for which no provision is made use forms of service considered suitable by the minister for those occasions.
  - (3) All variations in forms of service and all forms of service used must be reverent and edifying and must not be contrary to or a departure from the doctrine of this Church.
  - (4) A question concerning the observance of the provisions of sub-section 5(3) may be determined by the bishop of the diocese.
6. Each service must be said or sung distinctly, reverently and in audible voice in English or another language intelligible to the congregation.
7. A sermon must be preached at least once each Sunday in every cathedral and church in which Divine service is offered on that Sunday except for some reasonable cause approved by the bishop of the diocese. The preacher must endeavour to expound the scriptures, to the glory of God and to the edification of the people.
8. The minister must determine what parts of Divine Service offered in a church are to be said or sung. No musical instrument may be played in connection with Divine service in any church without the approval of the minister of that church. The minister must ensure that all music (including any words and accompaniment) is to the glory of God and to the edification of the people.
9. No minister may exorcise except where authorised so to do by the bishop of the diocese.
10. The canons numbered 14, 18, 19, 43, 45, 46, 47, 49 to 57 inclusive, 64, 67 and 72 of the Canons of 1603, in so far as the same may have any force, have no operation or effect in a diocese which adopts this canon.
11. 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.



## Offences Ordinance 1962

(Reprinted under the Interpretation Ordinance 1985.)

The Offences Ordinance 1962 as amended by the General Synod - Offences Amendment Canon 1981 Adopting Ordinance 1982, the General Synod - Special Procedure Canon 1992 Adopting Ordinance 1993, the Offences Ordinance 1962 Amendment Ordinance 1994, the General Synod - Offences Canon Amendment Canon 1998 Adopting Ordinance 1998, the Discipline Ordinance 2006, the General Synod – Offences Canon Amendment Canon 2007 Adopting Ordinance 2009 and the Discipline Amendment Ordinance 2014.

### Table of Provisions

Clause	
1	Declaration of Opinion
2	Adoption of Canon
3	Specified offences
4	Repeal
5	Citation
Schedule	

+++++

### Long Title

An Ordinance to adopt a certain canon of the Anglican Church of Australia entitled the “Offences Canon 1962” and for other purposes.

### Preamble

Whereas a certain Canon was passed by the General Synod of the Anglican Church of Australia entitled the “Offences Canon 1962” a copy of which is contained in the Schedule to this ordinance And Whereas it is expedient that the said Canon should be adopted by the Church in this Diocese.

The Synod of the Diocese of Sydney declares ordains and rules as follows.

### Declaration of Opinion

1. That in accordance with the provisions of the Constitution of the Anglican Church of Australia this Synod is of the opinion that the provisions of the said Canon affect or are deemed to affect the order and good government of the Church in this Diocese.

### Adoption of Canon

2. That the provisions of the said Canon excepting so much thereof as relates to the original jurisdiction of the provincial tribunal shall be and is hereby adopted and shall so far as the same are applicable be applied to the management of the Church in this Diocese in like manner as if the said ordinance had been ordained and ruled by the Synod of this Diocese.

### Specified offences

3. (1) The following are specified as offences for which a charge may be heard and determined by the Diocesan Tribunal (in addition to those specified by canon) –

- (a) Sexual abuse.
- (b) Child abuse.
- (c) Conviction in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or upwards or a conviction outside New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.
- (d) Grooming.
- (e) Inappropriate pastoral conduct involving a child.
- (f) Possession, production or distribution of child exploitation material.

**Notes:**

(1) *Other offences for which a charge may be heard and determined by the Diocesan Tribunal are –*

- *an offence under Clause 5 of the Relinquishment of Holy Orders Ordinance 1994, and*
- *an offence under clause 12 of the General Synod – Holy Orders, Relinquishment and Deposition Canon 2004 Adopting Ordinance 2005, and*
- *an offence under clause 7, 9, 24, 36(7) or 68(3) of the Discipline Ordinance 2006.*

(2) *Section 54(2) of the 1961 Constitution provides that a charge in respect of a breach of faith ritual or ceremonial may be made against a person licensed by the Archbishop or any other person in holy orders resident in the Diocese.*

(3) *Clause 3(3)(c) of the Church Ministry Ordinance 1993 makes the failure by a member of this Church (as provided in the 1902 Constitutions) to act in accordance with a provision of a Schedule to that Ordinance an offence. Clause 3(3)(b) of that Ordinance states that, for the purposes of section 54(2) of the 1961 Constitution, the provisions of each Schedule are each a matter of ritual ceremonial or discipline (as the case may be).*

(2) The following are specified as offences for which a charge may be heard and determined by the Disciplinary Tribunal –

- (a) Unchastity.
- (b) Drunkenness.
- (c) Habitual and wilful neglect of the duties of the person's position after written admonition in respect thereof by the appropriate church authority.
- (d) Wilful failure to pay just debts.
- (e) Conduct, whenever occurring –
  - (i) which would be disgraceful if committed by a person holding the position held by the person against whom the allegation is made or in which the person acts, and
  - (ii) which at the time the charge is preferred productive, or if known publicly would be productive, of scandal or evil report.
- (f) Sexual abuse.
- (g) Child abuse.
- (h) Conviction in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or upwards or a conviction outside New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.
- (i) Grooming.
- (j) Inappropriate pastoral conduct involving a child.
- (k) Possession, production or distribution of child exploitation material.

**Note:** *Other offences for which a charge may be heard and determined by the Disciplinary Tribunal are offences under clauses 7, 9, 24, 36(7) or 68(3) of the Discipline Ordinance 2006.*

(3) For the purposes of subclauses (1) and (2), “church authority”, “Diocesan Tribunal”, “Disciplinary Tribunal”, “sexual abuse”, “child abuse”, “grooming”, “inappropriate pastoral conduct involving a child” and “child exploitation material” have the same meanings as in the Discipline Ordinance 2006.

**Repeal**

4. The ordinance of the Synod of this Diocese assented to on the sixth day of October 1904 for accepting and adopting a certain Ordinance passed by the Provincial Synod Session 1904 entitled “An ordinance to provide for the definition of the offences for which a Clergyman may be tried” is hereby repealed.

**Citation**

5. This Ordinance may be cited as the “Offences Ordinance 1962”.

**Schedule**

A Canon to specify Offences under sections 54, 55, and 56 of the Constitution.

The General Synod prescribes as follows –

1. A Diocesan Tribunal and a Provincial Tribunal in its original jurisdiction in addition to their respective powers under section 54(2) and section 55(3) of the Constitution may hear and determine charges made in respect of the following offences alleged to have been committed by a person who, at the time the charge is preferred, is licensed by the bishop of the diocese or is in holy orders resident in the diocese –



1. Unchastity.
  2. Drunkenness.
  3. Habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the Bishop of the Diocese.
  4. Wilful failure to pay just debts.
  5. Conduct, whenever occurring,
    - (a) which would be disgraceful if committed by a member of the clergy, and
    - (b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.
  6. Any other offence prescribed by an Ordinance of the Synod of the Diocese.
2. The Special Tribunal in addition to its powers under section 56(6) of the Constitution may hear and determine charges against any person referred to in section 56(6) of the Constitution made in respect of the following offences –
1. Unchastity.
  2. Drunkenness.
  3. Wilful failure to pay just debts.
  4. Conduct, whenever occurring,
    - (a) which would be disgraceful if committed by a member of the clergy, and
    - (b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.
  5. Wilful violation of the Constitution or of the Canons made thereunder or of the Ordinances of the Provincial Synod or of this Diocesan Synod.
  6. Any conduct involving wilful and habitual disregard of his consecration vows.
3. This Canon may be cited as the “Offences Canon 1962-1981”.

---

#### Table of Amendments

Long Title	Amended under the Anglican Church of Australia Act 1976.
Preamble	Amended under the Anglican Church of Australia Act 1976.
Clause 1	Amended under the Anglican Church of Australia Act 1976.
Clause 3	Inserted by Ordinance No 43, 1994 and amended by Ordinances Nos 32, 2006 and 33, 2014.
Schedule	Amended by Ordinances Nos 34, 1982; 36, 1993; 56, 1998 and 29, 2009.



## Relinquishment of Holy Orders Ordinance 1994

(Reprinted under the Interpretation Ordinance 1985.)

The Relinquishment of Holy Orders Ordinance 1994 as amended by the Relinquishment of Holy Orders Amending Ordinance 2002, the Discipline Ordinance 2006, the Relinquishment of Holy Orders (Exclusion and Reinstatement) Ordinance 2011 and the Discipline Amendment Ordinance 2014.

### Table of Provisions

Clause	
1	Citation
2-4	Relinquishment of Holy Orders
5	Offence
6	Archbishop may treat relinquishment of orders as void

\* \* \* \* \*

### Long Title

An Ordinance to allow a person to be regarded as having relinquished his or her holy orders and for purposes related thereto.

The Synod of the Diocese of Sydney Ordains as follows.

### Citation

1. This ordinance may be cited as the "Relinquishment of Holy Orders Ordinance 1994".

### Relinquishment of Holy Orders

2. (1) A person in holy orders who holds or has held the licence or authority of the Archbishop or former Archbishop or resides in the Diocese may, by written notice to the Archbishop, request that the person be regarded as having relinquished his or her orders, subject to such notice being accompanied by a statement setting out any conduct committed by the person that may constitute an offence under clause 4 of the Discipline Ordinance 2006.

(2) A person who gives a notice to the Archbishop under subclause 2(1) must sign that notice in the presence of a prescribed witness who must also sign his or her name as a witness to the signature of the person concerned.

- (3) For the purposes of subclause 2(2) each of the following is a prescribed witness –
- (a) an Assistant Bishop of the Diocese;
  - (b) an Archdeacon of the Diocese;
  - (c) a judge;
  - (d) a barrister;
  - (e) a solicitor.

2A. The Archbishop may not accede to a request made under clause 2 in respect of a person against whom a complaint has been made under the Discipline Ordinance 2006 unless the Director of Professional Standards certifies to the Archbishop that, but for acceding to the request under clause 2, no further action is to be taken in relation to the complaint under the Discipline Ordinance 2006.

2B. If the Archbishop has reason to believe that a person who makes a request under clause 2 may have committed sexual misconduct against, with or in the presence of a child, including grooming of a child, or any serious physical assault of a child, he must inform the Director of Professional Standards and provide him with any relevant evidence so as to allow the Director to determine if a complaint should be made against the person under the Discipline Ordinance 2006 or any other action be taken in respect to the person.

3. The Archbishop may accede to a request made under clause 2 by giving written notice to that effect to the person concerned and to the Registrar.

4. (1) If the Archbishop accedes to a request made under clause 2 by giving notice under clause 3, the person concerned is to be regarded as having relinquished his or her holy orders on and from the date

of the Archbishop's notice. Thereafter, the person shall be considered to be a lay person for the purposes of all ordinances, rules and regulations having effect in the Diocese, except the Discipline Ordinance 2006.

(2) A person who is regarded as having relinquished his or her orders under this ordinance is deemed to have resigned any licence or authority of the Archbishop held by that person.

(3) The Archbishop may give notice that a person is to be regarded as having relinquished his or her Holy Orders from a particular date to such persons as the Archbishop considers necessary.

(4) Where the notice referred to under clause 2(1) includes an admission of misconduct by the person in Holy Orders, the Archbishop may include a statement of the general nature of that misconduct in the notice under clause 4(3).

#### **Offence**

5. It is an offence for a person who is regarded as having relinquished his or her holy orders under this ordinance to hold out that the person continues to hold those orders, and the person shall, in relation to the holding out, be taken to be a person in holy orders for the purposes of the Discipline Ordinance 2006.

#### **Archbishop may treat relinquishment of orders as void**

6. (1) A person who is regarded as having relinquished his or her orders under this ordinance may, by written request to the Archbishop, request that the relinquishment of orders be treated as void.

(2) The Archbishop may accede to a request made under subclause 6(1) by giving written notice to that effect to the person concerned and to the Registrar.

(3) If the Archbishop accedes to a request made under subclause 6(1) by giving a notice under subclause 6(2), the person concerned shall, on and from the date of the Archbishop's notice, be regarded as not having relinquished his or her holy orders for the purposes of all ordinances, rules and regulations having effect in the Diocese.

---

#### **Table of Amendments**

Clause 2	Amended by Ordinances Nos 59, 2002 and 33, 2014.
Clause 2A	Inserted by Ordinance No 42, 2011.
Clause 2B	New clause inserted by Ordinance No 33, 2014.
Clause 4	Amended by Ordinance No 59, 2002 and Ordinance No 32, 2006.
Clause 5	Amended by Ordinance No 32, 2006.



## Standing Committee Ordinance 1897

(Reprinted under the Interpretation Ordinance 1985.)

The Standing Committee Ordinance of 1897 as amended by the Standing Committee Ordinance Amending Ordinance of 1915, Standing Committee (Amending) Ordinance 1930, Standing Committee Ordinance of 1897 Further Amending Ordinance 1932, Casual Vacancies Ordinance 1935, Bishops Coadjutor ex Officio Ordinance 1940, Standing Committee Ordinance of 1897 Further Amending Ordinance 1948, Assistant Bishops (Bishops Coadjutor) Ordinance 1971, Standing Committee Amendment Ordinance 1978, Standing Committee Ordinance 1897-1978 Amending Ordinance 1984, the Diocesan Officers (Retirement) Ordinance 1987, the Miscellaneous Amendments Ordinance (No 1) 1991, the Standing Committee Amendment Ordinance 1991, the Committee Membership Amendment Ordinance 1995, the Standing Committee Ordinance 1897 Amending Ordinance 1995, the Regions (Transitional Provisions and Miscellaneous Amendments) Ordinance 1995, the Regional Electors Amendment Ordinance 1997, the Standing Committee (Elections) Amendment Ordinance 1998, the Miscellaneous Amendments Ordinance 2001, the Diocesan Officers (Retirement) Repeal Ordinance 2001, the Synod and Standing Committee (Membership) Amendment Ordinance 2003, the Regions Amendment Ordinance 2006, the Standing Committee Ordinance 1897 Amendment Ordinance 2010, the Synod Elections (Efficiency and Transparency) Amendment Ordinance 2013, the Standing Committee Amendment Ordinance 2014, the Synod (Governance of Diocesan Organisations) Amendment Ordinance 2015, the Synod and Standing Committee (Membership) Amendment Ordinance 2015 and the Sydney Anglican Home Mission Society Council (Merger with Anglican Retirement Villages Diocese of Sydney) Ordinance 2016.

### Table of Provisions

Clause	
1	Definitions
1A-1B	Constitution of the Standing Committee
2	Casual Vacancies
3	Filling of Casual Vacancies
4	Duties and Powers
5	Custody of Property
6	Conduct of Business, Quorum, etc
7	Minutes to be Kept
8	Report of Proceedings
9	Date of Coming into Force
10	Ordinance Repealed
11	Name of Ordinance

\* \* \* \* \*

### Long Title

An Ordinance to provide for the Constitution of a Standing Committee of the Synod of the Diocese of Sydney and to define their powers and duties.

### Preamble

Whereas it is expedient to provide for the constitution of a Standing Committee of the Synod of the Diocese of Sydney and to define their powers and duties, the said Synod in pursuance of the powers conferred upon it by the Constitutions for the management and good government of the United Church of England and Ireland within the Colony of New South Wales, and of all other powers, vested in the said Synod, ordains and rules as follows.

### Definitions

- (1) In this Ordinance –

“Elected Member” means a member of the Standing Committee referred to in paragraph (b), (c), (d) or (e) of subclause 1A(1).

“parochial unit” means a parish, provisional parish, assisted provisional parish or other ecclesiastical district recognised under the Parishes Ordinance 1979.

“Qualified Minister” means a person in Holy Orders who is a member of the Synod and is not an ex-officio member of the Standing Committee.

“Qualified Lay Person” means a lay person who is a member of the Synod.

“Regional Elected Member” means a member of the Standing Committee referred to in paragraph (d) or (e) of subclause 1A(1).

“Regional Electors” means, in relation to a Region, the following persons –

- (a) the Regional Bishop and the Regional Archdeacon;
- (b) each Qualified Minister licensed to a parochial unit in the Region;
- (c) each Qualified Lay Person who is a member of the Synod as a representative of a parochial unit in the Region; and
- (d) each other member of the Synod who resides in the Region and is not a Regional Elector for another Region.

“Synod Elected Member” means a member of the Standing Committee referred to in paragraph (b) or (c) of subclause 1A(1).

(2) In this Ordinance a person is from a Region if –

- (a) in the case of a Qualified Minister that person is licensed to a parochial unit in that Region; and
- (b) in the case of a Qualified Lay Person that person is a parishioner of a church in that Region.

(3) In this Ordinance the previous form of the Synod Elections Ordinance 2000 is the form of that Ordinance immediately before the Synod Elections (Efficiency and Transparency) Amendment Ordinance 2013 came into force.

### **Constitution of the Standing Committee**

1A. (1) The Standing Committee is constituted with the following members –

- (a) The Archbishop, the Regional Bishops, the Archdeacon for Women’s Ministry, the Chancellor, the Registrar, the Dean, the Diocesan Secretary, the Chief Executive Officer of Sydney Diocesan Secretariat and the Principal of Moore Theological College, ex-officio.
- (b) 4 Qualified Ministers elected by the members of Synod.
- (c) 8 Qualified Lay Persons elected by the members of Synod.
- (d) 2 Qualified Ministers from each Region elected by the Regional Electors of that Region.
- (e) 4 Qualified Lay Persons from each Region elected by the Regional Electors of that Region.
- (f) The Regional Archdeacons.

(2) A Regional Archdeacon who is a member of the Standing Committee under paragraph (1)(f) does not have the right to vote. In the absence of a Regional Bishop the Regional Archdeacon has a right to vote.

(3) The election of the Elected Members is to be held during the first session of each Synod and, subject to this Ordinance, such persons hold office until the first day of the first session of the next Synod.

(4) The following rules apply to the election of the Elected Members –

- (a) A person who has the necessary qualifications may be nominated for election as either –
  - (i) a Synod Elected Member, or
  - (ii) a Regional Elected Member.
- (b) If a person is nominated for election as a Synod Elected Member and a Regional Elected Member, the nomination for election as a Regional Elected Member is invalid.
- (c) Each election shall otherwise be conducted in accordance with the Synod Elections Ordinance 2000.

1B. (1) If a new Region is created, the Regional Electors of the Region are to elect the Regional Elected Members for that Region –

- (a) during the next ordinary session of the Synod, or
- (b) by postal ballot conducted under the previous form of the Synod Elections Ordinance 2000 provided that –
  - (i) a notice of the election under rule 3.1 of the Schedule to the previous form of the Synod Elections Ordinance 2000 is to be sent as soon as practicable after the creation of that Region, and

- (ii) the subsequent time frames for the election are to correspond to those that apply to a ballot held before the first appointed day of a session of the Synod.

(2) Subject to this Ordinance the persons elected under subclause (1) hold office until the first day of the first session of the next Synod.

(3) If a Region is abolished, the Regional Elected Members cease to be members of the Standing Committee on and from the date of abolition of the Region.

### **Casual Vacancies**

2. (1) A casual vacancy in the office of an Elected Member occurs on –
- (a) resignation in writing addressed to the Diocesan Secretary;
  - (b) death;
  - (c) insolvency under administration;
  - (d) loss of membership of the Synod;
  - (e) incapacity to act or absence from 3 consecutive meetings of the Standing Committee without leave;
  - (f) becoming an ex-officio member;
  - (g) becoming an Elected Member in another capacity;
  - (h) in the case of a Regional Elected Member, ceasing to be from the Region for which that person was elected as a member of the Standing Committee;
  - (i) a resolution by the Synod, or by the Standing Committee when the Synod is not in session, declaring a vacancy and specifying the person, this ordinance, and the reason therefore.
- (2) A vacancy in the office of an Elected member which is not filled at an election referred to in clause 1A or a ballot referred to in clause 1B, for the purposes of this Ordinance, is taken to be a casual vacancy.

### **Filling of Casual Vacancies**

3. (1) A casual vacancy among the Synod Elected Members may be filled by the Synod by an election conducted during the next ordinary session of the Synod. When the Synod is not in session the casual vacancy may be filled by the Standing Committee.
- (2) Subject to clause 2, the term of office of a person filling a casual vacancy under subclause (1) expires –
- (a) if the casual vacancy is filled by the Synod – on the first day of the first session of the next Synod; and
  - (b) if the casual vacancy is filled by the Standing Committee – on the first day of the next session of the Synod.
- (3) A casual vacancy in the office of a Regional Elected Member may be filled by the Regional Electors of the Region by an election conducted –
- (a) during the next ordinary session of the Synod, or
  - (b) by a postal ballot conducted under the previous form of the Synod Elections Ordinance 2000 provided that –
    - (i) a notice of the election under rule 3.1 of the Schedule to the previous form of the Synod Elections Ordinance 2000 is to be sent as soon as practicable after the casual vacancy occurs, and
    - (ii) the subsequent time frames for the election are to correspond to those that apply to a ballot held before the first appointed day of a session of the Synod.
- (3A) A postal ballot to fill a vacancy in the membership of the Standing Committee under clause 3(3) may, with the approval of the Standing Committee given by resolution, be conducted by electronic means.
- (4) Subject to clause 2, the term of office of a person filling a casual vacancy under subclause (3) expires on the first day of the first session of the next Synod.

### **Duties and Powers**

4. (1) It shall be the duty of the Standing Committee to make arrangements for the sessions of the Synod, and to prepare the business to be brought before the Synod, with power to propose such business as may appear to the Committee to be necessary or desirable to be brought before the Synod, in addition

to that arising out of matters which have been referred to them, and to print a Report of the proceedings of the Synod from time to time, and all documents ordered by the Synod to be printed.

(2) The Standing Committee are empowered to defray the necessary working expenses of the Synod and of the Standing Committee, and to pay such further sums as may from time to time be authorised by the Synod.

(3) The Standing Committee shall be a Council of Advice to the Bishop in any matter in which he may desire their advice. The Standing Committee shall consider and report upon any matter which the Synod may from time to time refer to them, and shall carry out or assist in carrying out the resolutions from time to time passed by the Synod and entrusted to them, or not otherwise provided for. The Standing Committee may deliberate and confer upon all matters affecting the interest of the Church and cognisable by the Synod, may make such enquiries as they shall deem to be requisite, and may communicate with the Government and all such bodies and persons as they shall consider necessary, and may present petitions and addresses to all such bodies and persons. PROVIDED that any action taken by the Committee not already sanctioned by the Synod shall have full force unless disallowed by the Synod at its next session.

(4) The Standing Committee shall discharge such other duties and exercise such other powers as the Synod shall from time to time prescribe.

(5) The Standing Committee may from time to time resolve that any of its business (other than the making of ordinances, the making of appointments or the filling of casual vacancies) be determined by a Regional Council or a committee or committees having members –

- (a) who are appointed from time to time by the Standing Committee;
- (b) who hold office for such terms and in accordance with such conditions as the Standing Committee may specify; and
- (c) at least half of whom are Standing Committee members.

(6) Where the Standing Committee resolves or has resolved under subclause (5) that certain of its business be determined by a Regional Council or a committee or committees, such Regional Council, committee or committees may, with the approval of the Standing Committee and subject to such conditions as the Standing Committee may impose, resolve that such business or any part of such business be determined by another person or body.

(7) A person who is an insolvent under administration is not eligible to be appointed to a committee referred to in subclause (5). A person appointed to such a committee ceases to be a member of that committee if that person becomes an insolvent under administration.

### **Custody of Property**

5. The Standing Committee shall have the custody of all books, documents or other property belonging to the Synod, and all other property belonging to the Church in the Diocese of Sydney not vested in any other body or person.

### **Conduct of Business, Quorum, etc**

6. (1) A notice of a meeting of the Standing Committee may be given to a member verbally or by serving it on the member personally or by sending it to the postal or email address supplied by the member for the giving of notices to the member but, if no address has been supplied by a member to the secretary or acting secretary of the Standing Committee, then to the address which is believed by the person giving the notice to be the place of business or of work or of residence of that member or an email address held by the Registrar for the member.

(2) Where a notice is sent by post, service shall be deemed to be effected by properly addressing prepaying (in the case of a notice sent by post) and posting or otherwise appropriately dispatching the notice and to have been effected on the day next following the day (neither day being a Saturday, Sunday or public holiday) after the date of its posting or dispatch.

(3) The Standing Committee may meet and exercise all powers conferred upon it notwithstanding that notice of the meeting may not have been given to all members of the Standing Committee in accordance with subclauses (1) and (2) of this clause if the notice has not been given –

- (a) due to inadvertence or an accidental omission, or
- (b) by reason of insufficient time;

Provided, in the case referred to in paragraph (b), by resolution supported by two-thirds of all members of the Standing Committee, the Standing Committee resolves that the nature of the business to be discussed and the powers to be exercised are such that delay is likely to prejudice the order and good government of the Anglican Church of Australia in the Diocese or a part thereof.

(4) No business shall be transacted at any meeting of the Standing Committee if a quorum is not present at the time when the business is to be transacted. If a quorum is not present within half an hour from the time appointed for a meeting of the Standing Committee, the meeting shall be dissolved. A quorum shall be not less than one-half of all members of the Standing Committee.

(4A) The members of the Standing Committee may pass a resolution without a meeting of the members being held if –

- (a) the secretary or acting secretary of the Standing Committee sends a copy of the proposed resolution to all members of the Standing Committee and specifies a reasonable timeframe within which members may indicate their support for or objection to the proposed resolution being passed, and
- (b) at least 75% of members indicate within the specified timeframe that they support the proposed resolution being passed, and
- (c) no more than 2 members object within the specified timeframe either to the proposed resolution being passed or the proposed resolution being passed without a meeting.

The secretary or acting secretary shall notify the Standing Committee of any resolution passed without a meeting at its next meeting and shall record in the minutes kept for that meeting the resolution together with any supporting attachments. A resolution so recorded shall be treated as a minute of the proceedings of the Standing Committee for the purposes of clause 7(1).

(5) Subject to this Ordinance and any other relevant ordinance, the Standing Committee from time to time may frame, alter, and repeal rules and regulations for the conduct of all business coming before it.

#### **Minutes to be Kept**

7. (1) Minutes of the proceedings of the Standing Committee shall be entered in a book kept for that purpose and, subject to subclause (2), the Committee shall cause such minute book to be laid before the Synod at the commencement of every session.

(2) The secretary or acting secretary of the Standing Committee is authorised to omit from the Minute Book laid before the Synod any minute and any attachment to a minute which contains details of –

- (a) current legal proceedings or claims which may become the subject of legal proceedings,
- (b) the terms of any settlement of legal proceedings which require confidentiality,
- (c) any matter which the Archbishop acting on the advice of the Chancellor considers is properly treated as commercial-in-confidence, or
- (d) any other matter the Standing Committee declares by resolution to be confidential for the purposes of this subclause.

#### **Report of Proceedings**

8. The Standing Committee shall present an Annual Report of their proceedings to the Synod, which shall include a statement of their receipts and expenditure during the year, audited by the auditors appointed by the Synod.

#### **Date of Coming into Force**

9. This Ordinance shall come into force upon the first day of the first session of the next Synod.

#### **Ordinance Repealed**

10. The Ordinance intituled the “Standing Committee Ordinance of 1895” is hereby repealed.

#### **Name of Ordinance**

11. This ordinance is the Standing Committee Ordinance 1897.



## Notes

This Ordinance came into effect on 20 September 1898.

Clause 5 of the Miscellaneous Amendments Ordinance 1997 provides as follows –

“Notwithstanding clauses 1A and 3(1) of the Standing Committee Ordinance 1897, an election by the Synod to fill a casual vacancy in the office of member of the Standing Committee referred to in paragraphs 1A(1)(b) and (c) of the Standing Committee Ordinance 1897 shall be conducted in accordance with the provisions of the Elections Ordinance 1970, other than clause 37A.”

The amendments made by Ordinance No 34, 2015 commence on the day immediately following the last day of the 2nd session of the 50th Synod.

## Table of Amendments

Clause 1	Original clause amended by Ordinances Nos 1, 1915; 11, 1930; 9, 1932; 9, 1948; 27, 1971; 29, 1978; 28, 1987; 37, 1991 and 23, 1995. New clause inserted by Ordinance No 33, 1995 and amended by Ordinances Nos 31, 1997, 36, 2006 and 42, 2013.
Clause 1A	New clause inserted by Ordinance No 33, 1995 and amended by Ordinances Nos 31, 1998; 32, 2001; 47, 2003; 6, 2010; 42, 2013; 34, 2015 and 9, 2016.
Clause 1B	Inserted by Ordinance No 33, 1995 and amended by Ordinance No 32, 2001. New clause inserted by Ordinance No 42, 2013.
Clause 2	Original clause amended by Ordinances Nos 11, 1935 and 28, 1987. New clause inserted by Ordinance No 33, 1995 and amended by Ordinances Nos 59, 2001; 47, 2003; 36, 2006 and 42, 2013.
Clause 3	Original clause amended by Ordinances Nos 11, 1935 and 28, 1987. New clause inserted by Ordinance No 33, 1995 and amended by Ordinances Nos 36, 2006; 42, 2013 and 9, 2015.
Clause 4	Amended by Ordinances Nos 44, 1991; 23, 1995 and 9, 2014.
Clause 6	Amended by Ordinances Nos 26, 1984 and 9, 2014.
Clause 7	Amended by Ordinance No 9, 2014.
Clause 11	Amended by various ordinances including Ordinance No 32, 2001 and the Interpretation Ordinance 1985.



## Synod Membership Ordinance 1995

(Reprinted under the Interpretation Ordinance 1985.)

The Synod Membership Ordinance 1995 as amended by the Miscellaneous Amendments Ordinance 1997, the Assisted Provisional Parishes (Reclassification) Ordinance 1997, the Conduct of the Business of Synod Ordinance 2000, the Synod Membership Ordinance 1995 Amendment Ordinance 2003, the Synod and Standing Committee (Membership) Amendment Ordinance 2003, the Synod Membership (Election of Parochial Representatives) Amendment Ordinance 2004, the Synod Membership (Indigenous Representation) Amendment Ordinance 2006, the Synod Membership (Nominated Indigenous Representatives) Ordinance 2009, the Synod (Electronic Communications) Amendment Ordinance 2013, the Conduct of the Business of Synod Ordinance 2000 Amendment Ordinance 2014, the Synod and Standing Committee (Membership) Amendment Ordinance 2015 and the Synod Membership Ordinance 1995 Amendment Ordinance 2016.

### Table of Provisions

Clause

#### **Part 1 – Preliminary**

- 1 ..... Citation
- 2 ..... Definitions

#### **Part 2 – Frequency and Proceedings of Synod**

- 3 ..... Frequency
- 4 ..... Rules for Conduct of Business of Synod

#### **Part 3 – Membership of Synod**

- 5 ..... Membership
- 5A ..... Consent to use of personal information by Registrar
- 6 ..... Declaration

#### **Part 3A – Synod Communications**

- 6A ..... Members of Synod to ensure Registrar holds current postal and email addresses
- 6B ..... Synod communications may be sent by email
- 6C ..... Notifying information about members of the Synod to the Registrar

#### **Part 4 – Parochial Ministers**

##### *Division 1 – Parochial Ministers*

- 7 ..... Each Parochial Minister must be summoned to Synod
- 8 ..... What if a person ceases to be a Parochial Minister after a summons has issued?

##### *Division 2 – Alternate for a Parochial Minister*

- 8A ..... Parochial Minister may appoint an alternate
- 8B ..... Alternate to attend in place of the Parochial Minister
- 8C ..... When does an appointment of an alternate end?

#### **Part 5 – Parochial Representatives**

##### *Division 1 – Parochial Representatives*

- 9 ..... Who is a Parochial Representative?

##### *Division 2 – Election of Parochial Representatives*

- 10 ..... How many Parochial Representatives can a Parish elect?
- 11 ..... How many Parochial Representatives can a Provisional Parish elect?
- 12 ..... What if a Parish is reclassified as a Provisional Parish?
- 13 ..... What if a Provisional Parish is reclassified as a Parish?
- 14 ..... What if 2 or more Parochial Units amalgamate?
- 15 ..... When may persons be elected to be Parochial Representatives?

- 16 .....How are elections to be conducted?  
 17 .....Notice to be given to the Registrar when a person is elected  
 to be a Parochial Representative

*Division 3 – Retirement of Parochial Representatives*

- 18 .....When does a person retire as a Parochial Representative?  
 19 .....Notice to be given to the Registrar when a person retires as  
 a Parochial Representative  
 20 .....A vacancy in the office of Parochial Representative may be  
 filled

*Division 4 – Summoning of Parochial Representatives to Synod*

- 21 .....Parochial Representatives must be summoned to Synod  
 22 .....What if a person retires as a Parochial Representative after  
 a summons has issued?

*Division 5 – Alternate for a Parochial Representative*

- 22A .....Parochial Representative may appoint an alternate  
 22B .....Alternate to attend in place of the Parochial Representative  
 22C .....When does an appointment of an alternate end?

**Part 6 – Chief Executive Officers of Nominated Organisations**

*Division 1 – Nominated Organisations*

- 23 .....What is a Nominated Organisation?

*Division 2 – Declaration of boards etc to be Nominated Organisations*

- 24 .....How does a board etc become a Nominated Organisation?  
 25 .....How many Nominated Organisations may exist at one time?  
 26 .....Notice must be given to the Registrar when a board etc is  
 declared to be a Nominated Organisation

*Division 3 – Chief Executive Officers of Nominated Organisations*

- 27 .....Nominated Organisation to give notice re Chief Executive  
 Officer  
 28 .....Notice must be given to the Registrar when a person ceases  
 to be Chief Executive Officer

*Division 4 – Summoning of Chief Executive Officers to Synod*

- 29 .....Chief Executive Officers must be summoned to Synod  
 30 .....What if a person ceases to be a Chief Executive Officer of a  
 Nominated Organisation after a summons has issued?

**Part 7 – Nominated Ministers**

*Division 1 – Nominated Ministers*

- 31 .....Who is a Nominated Minister?  
 32 .....Number of Nominated Ministers

*Division 2 – Appointment of persons to be Nominated Ministers*

- 33 .....Who may be appointed to be a Nominated Minister?  
 34 .....Notice must be given on the appointment of a person to be a  
 Nominated Minister

*Division 3 – Retirement of Nominated Ministers*

- 35 .....When does a person retire as a Nominated Minister?  
 36 .....Notice must be given when a person retires as a Nominated  
 Minister  
 37 .....Filling of Casual Vacancies

*Division 4 – Summoning of Nominated Ministers to Synod*

- 38 .....Nominated Ministers must be summoned to Synod  
 39 .....What if a person ceases to be a Nominated Minister after a  
 summons has issued?

**Part 8 – Nominated Laypersons***Division 1 – Nominated Laypersons*

- 40 ..... Who is a Nominated Layperson?  
41 ..... Number of Nominated Laypersons

*Division 2 – Election of Nominated Laypersons*

- 42 ..... Who elects persons to be Nominated Laypersons?  
43 ..... Who may be elected to be a Nominated Layperson  
44 ..... When may persons be elected to be Nominated Laypersons?  
45 ..... Notice must be given on the election of a Nominated Layperson

*Division 3 – Retirement of Nominated Laypersons*

- 46 ..... When does a person retire as a Nominated Layperson?  
47 ..... Notice must be given when a person ceases to be a Nominated Layperson  
48 ..... A new Nominated Layperson may be elected to fill a vacancy

*Division 4 – Summoning of Nominated Laypersons to Synod*

- 49 ..... Nominated Laypersons must be summoned to Synod  
50 ..... What if a person retires as a Nominated Layperson after a summons has issued?

**Part 8A – Nominated Indigenous Representatives***Division 1 – Election of Nominated Indigenous Representatives*

- 50A ..... Who is a Nominated Indigenous Representative?  
50B ..... Election of Nominated Indigenous Representatives  
50C ..... Notice must be given on the election of a Nominated Indigenous Representative

*Division 2 – Retirement of Nominated Indigenous Representatives*

- 50D ..... When does a person retire as a Nominated Indigenous Representative?  
50E ..... Notice must be given when the person retires as a Nominated Indigenous Representative  
50F ..... A new Nominated Indigenous Representative may be elected to fill a vacancy

*Division 3 – Summoning of Nominated Indigenous Representative to Synod*

- 50G ..... Nominated Indigenous Representatives must be summoned to Synod  
50H ..... What if a person retires as a Nominated Indigenous Representative after a summons has issued?

**Part 9 – Other Members of Synod**

- 51 ..... The Chancellor  
52 ..... The Registrar  
52A ..... Diocesan Secretary  
52B ..... Regional Bishops  
52C ..... Archdeacon for Women's Ministry  
52D ..... Principal of Moore Theological College  
53 ..... Warden of St Paul's College and College Representatives

**Part 10 – Transitional**

- 54 ..... Commencement and Transitional  
55 ..... Repeal of Former Legislation

## Dictionary

\* \* \* \* \*

## Long Title

An Ordinance to provide for the election, appointment and summoning of Synod members and for matters incidental thereto.

Now the Synod of the Diocese of Sydney Ordains as follows –

### Part 1 – Preliminary

#### 1. Citation

This Ordinance may be cited as the “Synod Membership Ordinance 1995”.

#### 2. Definitions

A word or expression used in this Ordinance and which is defined in the Dictionary at the end of this Ordinance has the meaning set out in the Dictionary.

### Part 2 – Frequency and Proceedings of Synod

#### 3. Frequency

A new Synod must be elected and convened at least once in every 3 years.

#### 4. Rules for Conduct of Business of Synod

The rules for the conduct of all business coming before the Synod shall be those set out in the Schedule to the Conduct of the Business of Synod Ordinance 2000.

### Part 3 – Membership of Synod

#### 5. Membership

Subject to this Ordinance, the members of a Synod comprise –

- (a) Parochial Ministers (see Part 4);
- (b) Parochial Representatives for that Synod (see Part 5);
- (c) Chief Executive Officers of Nominated Organisations for that Synod (see Part 6);
- (d) Nominated Ministers for that Synod (see Part 7);
- (e) Nominated Laypersons for that Synod (see Part 8); and
- (f) Nominated Indigenous Representatives for that Synod (see Part 8A); and
- (g) Other members (see Part 9).

#### 5A. Consent to use of personal information by Registrar

(1) Each person elected or appointed as a Parochial Representative, alternate for a Parochial Representative, Nominated Layperson or lay Nominated Indigenous Representative must give the following consent prior to notice of his or her election or appointment being given under this Ordinance to the Registrar –

“I consent to my name, contact details and any other personal information that is reasonably necessary for the proper administration of the Synod and the Diocese being collected, used and disclosed by the Registrar for these purposes.”

(2) The person who or the body which is required to give the Registrar notice of an election or appointment referred to in subclause (1) must retain, or cause to be retained, a written record of the consent.

(3) For the purposes of subclause (1), the proper administration of the Diocese includes any act or practice which is –

- (a) performed pursuant to or under an ordinance or resolution of the Synod or the Standing Committee, or
- (b) reasonably necessary to give effect to an ordinance or resolution of the Synod or the Standing Committee, or
- (c) a discharge of the duties or exercise of the powers and authorities of the Archbishop however arising,

and the proper administration of the Synod includes any act or practice which is undertaken by the Diocesan Secretary or the Secretary of the Synod in the course of administering the Synod.

**6. Declaration**

(1) Each Parochial Representative, alternate for a Parochial Representative, Nominated Layperson and lay Nominated Indigenous Representative must sign the following declaration prior to notice of his or her election or appointment being given under this Ordinance to the Registrar –

“I, the undersigned A.B., do declare that I am a communicant member of the Anglican Church of Australia and not a member of any other Church.”

(2) The person or body which is required to give the Registrar notice of an election or appointment referred to in subclause (1) must retain, or cause to be retained, the signed declaration.

**Part 3A – Synod Communications**

**6A. Members of Synod to ensure Registrar holds current postal and email addresses**

(1) Each person who holds office as a member of the Synod *ex officio* must ensure that the Registrar holds a current postal and email address for that person.

(2) Each member of the Synod must ensure that each postal and email address held by the Registrar for the member remains current.

**6B. Synod communications may be sent by email**

(1) Subject to subclauses (2), (3) and (4), a Synod Communication may be sent to a member of the Synod at any email address held by the Registrar for the member instead of the member's postal address.

(2) If the Registrar does not hold an email address for a member of the Synod, any Synod Communication which would otherwise have been sent to the member by email is taken to have been duly sent to and received by the member.

(3) If an email address held by the Registrar for a member of the Synod is not current and a Synod Communication is sent to the member at that email address, the Synod Communication is taken to have been duly sent to and received by the member.

(4) The Standing Committee may make regulations from time to time prescribing –

- (a) the manner in which Synod Communications are to be sent to members of the Synod by email, and
- (b) any type of Synod Communication which must also be sent to members by post.

**6C. Notifying information about members of the Synod to the Registrar**

(1) The Registrar may make provision for –

- (a) any notice required by ordinance to be given to the Registrar about a member of the Synod, and
- (b) any other information which is or may be held by the Registrar about a member of the Synod,

to be directly provided to or updated on a secure on-line database held by the Registrar.

(2) To the extent the Registrar makes the provision referred to in subclause (1) –

- (a) any notice required by ordinance to be given to the Registrar about a member of the Synod is taken to have been given to the Registrar, and
- (b) any other information about a Synod member is taken to be held by the Registrar,

if the notice or information is duly provided to or updated on the secure on-line database.

(3) In making the provision referred to in subclause (1), the Registrar must take reasonable steps to ensure that –

- (a) the information held by the Registrar on the database is secure, and
- (b) a person who provides a notice to or updates information on the secure on-line database is a person entitled to do so.

**Part 4 – Parochial Ministers**

**Division 1 – Parochial Ministers**

**7. Each Parochial Minister must be summoned to Synod**

Each Parochial Minister is a member of the Synod and must be summoned to each session of the Synod convened after that person becomes a Parochial Minister.

**8. What if a person ceases to be a Parochial Minister after a summons has issued?**

If a person is summoned to a session of Synod as a Parochial Minister and before the first day of that session the person ceases to be a Parochial Minister, the person ceases to be a member of the Synod and the summons is void.

***Division 2 – Alternate for a Parochial Minister*****8A. Parochial Minister may appoint an alternate**

(1) A Parochial Minister may appoint an Associate Minister licensed to the same Parochial Unit to be the alternate for the Parochial Minister for a session of the Synod if the Parochial Minister expects that during all or part of that session –

- (a) the Parochial Minister will be outside the Diocese; or
- (b) the Parochial Minister will be on annual leave or long service leave; or
- (c) the Parochial Minister will be unable to perform normal ministry duties due to sickness or accident for which the Parochial Unit will be in receipt of benefits from the Sydney Diocesan Sickness and Accident Fund; or
- (d) the Parochial Minister, with the consent of the Archbishop, will for any other reason be unable to attend all or part of that session.

(2) The appointment of an alternate can only be made by the Parochial Minister giving to the Registrar, at least 14 days prior to the first day of the session, a written notice –

- (a) certifying that the Parochial Minister expects that during all or part of that session the Parochial Minister will be outside the Diocese or will be on annual leave or long service leave or will be unable to perform normal ministry duties in terms of subclause (1)(c) or, with the consent of the Archbishop, will for another reason be unable to attend all or part of that session; and
- (b) specifying the name of, and a postal and email address for, the Associate Minister appointed as the alternate and the session of the Synod for which the alternate has been appointed.

(3) An appointment made under this clause may only be revoked –

- (a) by the Parochial Minister; and
- (b) if written notice of the revocation is given to the Registrar at least 14 days prior to the first day of the session.

**8B. Alternate to attend in place of the Parochial Minister**

(1) At the session of the Synod for which an Associate Minister is appointed as the alternate for a Parochial Minister, the alternate –

- (a) may exercise all the rights which a Parochial Minister may exercise as a member of the Synod; and
- (b) shall be taken to be a Parochial Minister in determining any quorum at the session,

but is not entitled to be elected to any office or committee of the Synod for which membership of the Synod is a qualification.

(2) If –

- (a) a Parochial Minister has appointed an alternate under clause 8A; and
- (b) the appointment has not ended under clause 8C,

the Parochial Minister is not to attend the session of the Synod for which the alternate has been appointed.

**8C. When does an appointment of an alternate end?**

The appointment of an Associate Minister as the alternate for a Parochial Minister under clause 8A ends on the first to occur of –

- (a) the person making the appointment ceasing to be the Parochial Minister of the Parochial Unit to which the person was licensed at the time the appointment was made; or
- (b) the person appointed as alternate ceasing to be an Associate Minister licensed to the Parochial Unit to which the person was licensed at the time the appointment was made; or
- (c) the Parochial Minister revoking the appointment under clause 8A(3); or
- (d) the end of the last day of the session of the Synod for which that person was appointed as an alternate.

**Part 5 – Parochial Representatives*****Division 1 – Parochial Representatives*****9. Who is a Parochial Representative?**

A person is a Parochial Representative for a Synod if –

- (a) that person has been elected to be a Parochial Representative for that Synod; and
- (b) notice of the election has been given to the Registrar under clause 17; and
- (c) that person has not retired as a Parochial Representative under clause 18.

***Division 2 – Election of Parochial Representatives*****10. How many Parochial Representatives can a Parish elect?**

A Parish may elect 1 or 2 Qualified Persons to be Parochial Representatives.

**11. How many Parochial Representatives can a Provisional Parish elect?**

A Provisional Parish may elect 1 Qualified Person to be a Parochial Representative.

**12. What if a Parish is reclassified as a Provisional Parish?**

- (1) If a Parish is reclassified as a Provisional Parish, the persons elected (if any) to be Parochial Representatives for that Parish retire as Parochial Representatives on the date the reclassification takes effect.
- (2) A Parochial Representative for the Provisional Parish may be elected at a General Meeting held at any time after the date of reclassification.
- (3) For the purposes of this clause –
  - (a) “reclassified” does not include provisionally reclassified; and
  - (b) where the date of reclassification occurs within 2 months before the first day of a session of Synod or occurs during a session of Synod, the date of reclassification is taken to be the day after the last day of that session of Synod.

**13. What if a Provisional Parish is reclassified as a Parish?**

- (1) If a Provisional Parish is reclassified as a Parish an additional Parochial Representative for that Parochial Unit may be elected at a General Meeting held at any time after the date of reclassification.
- (2) If a Provisional Parish is reclassified as a Parish within 2 months before the first day of a session of Synod or during a session of Synod, the date of reclassification is taken to be, for the purpose of this clause, the day after the last day of that session of Synod.

**14. What if 2 or more Parochial Units Amalgamate?**

- (1) Where 2 or more Parochial Units are amalgamated, the persons elected (if any) to be Parochial Representatives for each of those Parochial Units retire as Parish Representatives on the date of amalgamation.
- (2) A Parish Representative or Representatives for the new Parochial Unit may be elected at a General Meeting held at any time after the date of amalgamation.
- (3) If 2 or more Parochial Units are amalgamated within 2 months before the first day of a session of Synod or during a session of Synod the date of amalgamation is taken to be, for the purposes of this clause, the day after the last day of that session of Synod.

**15. When may persons be elected to be Parochial Representatives?**

A person may be elected to be a Parochial Representative of a Parochial Unit for a Synod at a General Meeting held at any time during the calendar year in which the first ordinary session of that Synod is to be convened or at any time thereafter.

**16. How are elections to be conducted?**

The provisions which apply to the nomination of persons and the conduct of contested elections at a General Meeting apply in relation to the nomination of a person as a Parochial Representative and to the conduct of contested elections as if those provisions were set out in full in this ordinance.

**17. Notice to be given to the Registrar when a person is elected to be a Parochial Representative**

Upon the election of a person to be a Parochial Representative, the chairman of the General Meeting at which the election took place must give, or cause to be given, to the Registrar a written notice –



- (a) specifying the name and date of election of the person elected to be a Parochial Representative; and
- (b) specifying a postal and email address for the person; and
- (c) specifying the Synod for which the person has been elected to be a Parochial Representative; and
- (d) certifying that the person has given the consent required by clause 5A and that a written record of the consent has been retained; and
- (e) certifying that the person has signed the declaration required by clause 6(1) and that the signed declaration has been retained.

### ***Division 3 – Retirement of Parochial Representatives***

#### **18. When does a person retire as a Parochial Representative?**

A person retires as a Parochial Representative if –

- (a) a Disqualifying Event occurs in respect of that person;
- (aa) the person ceases to be a Qualified Person;
- (b) the person resigns by written notice given to the Parochial Minister or, if there is no Parochial Minister, to the Wardens;
- (c) the person retires as a Parochial Representative by reason of clause 12 or 14; or
- (d) a General Meeting of the Parochial Unit resolves to revoke the person's entitlement to hold office as a Parochial Representative in circumstances where the person has ceased being a parishioner of the Parochial Unit and the Parochial Minister certifies that, having made reasonable efforts to contact the person –
  - (i) no contact has been made, or
  - (ii) contact has been made but the person did not indicate a wish to remain as a Parochial Representative.

#### **19. Notice to be given to the Registrar when a person retires as a Parochial Representative**

If a person retires as a Parochial Representative otherwise than by reason of clause 12 or 14, the Parochial Minister or, if there is no Parochial Minister, the Wardens must give, or cause to be given, to the Registrar a written notice specifying –

- (a) the name of the person and the date on which the person retired as a Parochial Representative; and
- (b) the Synod for which the person had been a Parochial Representative.

#### **20. A vacancy in the office of a Parochial Representative may be filled**

A person may be elected to fill a vacancy in the office of a Parochial Representative at a General Meeting of the Parochial Unit.

### ***Division 4 – Summoning of Parochial Representatives to Synod***

#### **21. Parochial Representatives must be summoned to Synod**

Each person who is a Parochial Representative for a Synod is a member of that Synod and must be summoned to each session of that Synod convened after that person becomes a Parochial Representative.

#### **22. What if a person retires as a Parochial Representative after a summons has issued?**

If a person is summoned to a session of Synod as a Parochial Representative and before the first day of that session that person retires as a Parochial Representative, the summons is void.

### ***Division 5 – Alternate for a Parochial Representative***

#### **22A. Parochial Representative may appoint an alternate**

(1) With the consent of the Wardens, a Parochial Representative may appoint a Qualified Person to be the alternate for the Parochial Representative for a session of the Synod if the Parochial Representative expects that during all or part of the session –

- (a) the Parochial Representative will be outside the Diocese; or
- (b) the Parochial Representative will be on annual leave or long service leave or sick leave; or
- (c) the Parochial Representative will be for any other reason unable to attend all or part of that session.

(2) The appointment of an alternate can only be made by the Parochial Representative giving to the Registrar, at least 14 days prior to the first day of the session, a written notice –

- (a) certifying that the Parochial Representative expects that during all or part of that session the Parochial Representative will be outside the Diocese or will be on annual leave or long service leave or sick leave or for another specified reason will be unable to attend all or part of that session; and
- (b) specifying the name of the Qualified Person appointed as the alternate and the session of the Synod for which the alternate has been appointed; and
- (c) specifying a postal and email address for the Qualified Person appointed as the alternate; and
- (d) certifying that the Wardens have consented to the appointment of the Qualified Person as the alternate; and
- (e) certifying that the Qualified Person appointed as the alternate has given the consent required by clause 5A and that a written record of the consent has been retained; and
- (f) certifying that the Qualified Person appointed as the alternate has signed the declaration required by clause 6(1) and that the signed declaration has been retained.

(3) An appointment made under this clause may be revoked if written notice of the revocation is given to the Registrar at least 14 days prior to the first day of the session –

- (a) by the parish council; or
- (b) by the Parochial Representative if he or she has become available to attend the session of Synod.

## **22B. Alternate to attend in place of the Parochial Representative**

(1) At the session of the Synod for which a Qualified Person is appointed as the alternate for a Parochial Representative, the alternate –

- (a) may exercise all the rights which a Parochial Representative may exercise as a member of the Synod; and
- (b) shall be taken to be a Parish Representative in determining any quorum at the session,

but is not entitled to be elected to any office or committee of the Synod for which membership of the Synod is a qualification.

(2) If –

- (a) a Parochial Representative has appointed an alternate under clause 22A; and
- (b) the appointment has not ended under clause 22C,

the Parochial Representative is not to attend the session of the Synod for which the alternate has been appointed.

## **22C. When does an appointment of an alternate end?**

The appointment of a Qualified Person as the alternate for a Parochial Representative under clause 22A ends on the first to occur of –

- (a) the retirement of the Parochial Representative under clause 18; or
- (b) the person appointed as the alternate ceasing to be a Qualified Person; or
- (c) the revocation of the appointment under clause 22A(3); or
- (d) the end of the last day of the session of the Synod for which that person was appointed as an alternate.

## **Part 6 – Chief Executive Officers of Nominated Organisations**

### ***Division 1 – Nominated Organisations***

## **23. What is a Nominated Organisation?**

Subject to clause 25, a diocesan board, department or organisation is a Nominated Organisation for a Synod if –

- (a) the board, department or organisation has been declared by the Standing Committee under clause 24 to be a Nominated Organisation for that Synod; and
- (b) notice of the declaration has been given to the Registrar under clause 26.

***Division 2 – Declaration of boards etc to be Nominated Organisations*****24. How does a board etc become a Nominated Organisation?**

The Standing Committee may, by resolution, declare a diocesan board, department or organisation to be a Nominated Organisation for a Synod.

**25. How many Nominated Organisations may exist at one time?**

(1) The Standing Committee must not make a declaration under clause 24 if, at the time the declaration is made, similar declarations are in force for 5 other diocesan boards, departments or organisations for the same Synod in respect of which the Standing Committee proposes making the declaration.

(2) A declaration made in breach of subclause 25(1) is void.

**26. Notice must be given to the Registrar when a board etc is declared to be a Nominated Organisation**

Upon the making of a declaration under clause 24, the Standing Committee must give, or cause to be given, to the Registrar and to the governing body of the relevant board, department or organisation a written notice specifying –

- (a) the name of the board, department or organisation and the date on which the declaration was made; and
- (b) the Synod for which the board, department or organisation has been declared to be a Nominated Organisation.

***Division 3 – Chief Executive Officers of Nominated Organisations*****27. Nominated Organisation to give notice re Chief Executive Officer**

At any time after receiving notice under clause 26, the governing body of a Nominated Organisation may give to the Registrar written notice of the name of, and a postal and email address for, its Chief Executive Officer.

**28. Notice must be given to the Registrar when a person ceases to be Chief Executive Officer**

(1) If –

- (a) the governing body of a Nominated Organisation has given a notice under clause 27; and
- (b) the person referred to in that notice ceases to be the Chief Executive Officer,

the governing body of the Nominated Organisation must give to the Registrar written notice specifying the name of that person and the date on which that person ceased to be the Chief Executive Officer.

(2) The governing body of the Nominated Organisation may then give a notice under clause 27 in respect of its new Chief Executive Officer.

***Division 4 – Summoning of Chief Executive Officers to Synod*****29. Chief Executive Officers of Nominated Organisations must be summoned to Synod**

If –

- (a) a diocesan board, department or organisation is a Nominated Organisation; and
- (b) a notice has been given under clause 27; and
- (c) the person referred to in that notice has not ceased to be Chief Executive Officer; and
- (d) that person is not entitled to be summoned to the Synod under Part 4, 5 or 9 of this ordinance,

that person is a member of the Synod and must be summoned to each session of the Synod held after the date on which the person became the Chief Executive Officer.

**30. What if a person ceases to be Chief Executive Officer of a Nominated Organisation after a summons has issued?**

If a person is summoned to a session of Synod as the Chief Executive Officer of a Nominated Organisation, and before the first day of that session that person ceases to be the Chief Executive Officer of a Nominated Organisation, the summons is void.

**Part 7 – Nominated Ministers*****Division 1 – Nominated Ministers*****31. Who is a Nominated Minister?**

A person is a Nominated Minister for a Synod if –

- (a) that person has been appointed by the Archbishop to be a Nominated Minister for that Synod;

- (b) notice of the appointment has been given to the Registrar and to the Standing Committee under clause 34; and
- (c) that person has not retired as a Nominated Minister under clause 35.

**32. Number of Nominated Ministers**

- (1) As soon as is practicable in the calendar year in which the first ordinary session of a Synod is to be convened, and in any event not less than 2 months before the first day of that session, the Archbishop shall advise the Standing Committee of the number of persons the Archbishop intends to appoint as Nominated Ministers for that Synod.
- (2) The number of Nominated Ministers for a Synod must not, at any time, exceed that number which is equal to 10% of the total number of Parochial Ministers determined on 1 January in the calendar year in which the first session of that Synod is to be or was held.
- (3) The Archbishop may, at any time, by advice to the Standing Committee increase the number of persons to be appointed as Nominated Ministers for a Synod provided that the total number of Nominated Ministers for that Synod must not exceed the number calculated in accordance with subclause (2).
- (4) If the Archbishop increases the number of Nominated Ministers under subclause (3) within 2 months before the first day of a session of Synod, such increase does not take effect until the day after the last day of that session.

***Division 2 – Appointment of persons to be Nominated Ministers*****33. Who may be appointed to be a Nominated Minister?**

The Archbishop may only appoint a person to be a Nominated Minister if –

- (a) that person is a Qualified Minister; and
- (b) that person is not entitled to be summoned to a session of Synod under Part 4, 6 or 9 of this ordinance.

**34. Notice must be given on the appointment of a person to be a Nominated Minister**

- (1) The Archbishop must give written notice to the Registrar and the Standing Committee of the name of each person appointed by the Archbishop to be a Nominated Minister for a Synod and a postal and email address for such persons.
- (2) The Archbishop must not appoint a person to be a Nominated Minister for a Synod if such appointment would result in the number of Nominated Ministers for that Synod exceeding the number advised by the Archbishop to the Standing Committee under subclauses 32(1) or (3).

***Division 3 – Retirement of Nominated Ministers*****35. When does a person retire as a Nominated Minister?**

A person retires as a Nominated Minister if –

- (a) a Disqualifying Event occurs in respect of that person; or
- (b) the person resigns by written notice given to the Archbishop; or
- (c) the person ceases to be a Qualified Minister; or
- (d) the Archbishop, by written notice to the person, revokes the person's appointment as a Nominated Minister; or
- (e) the person becomes entitled to be summoned to a session of Synod under Part 4, 6 or 9 of this ordinance.

**36. Notice must be given when a person retires as a Nominated Minister**

Upon a person retiring as a Nominated Minister the Archbishop must give, or cause to be given, to the Registrar a written notice specifying –

- (a) the name of the person and the date on which the person retired as a Nominated Minister; and
- (b) the Synod for which that person had been a Nominated Minister.

**37. Filling of Casual Vacancies**

The Archbishop may appoint a person to fill a vacancy in the office of a Nominated Minister.

***Division 4 – Summoning of Nominated Ministers to Synod*****38. Nominated Ministers must be summoned to Synod**

Each Nominated Minister is a member of the Synod for which that person has been appointed and must be summoned to each session of that Synod convened after that person becomes a Nominated Minister.

**39. What if a person retires as a Nominated Minister after a summons has issued?**

If a person is summoned to a session of Synod as a Nominated Minister and before the first day of that session the person retires as a Nominated Minister, the summons is void.

**Part 8 – Nominated Laypersons*****Division 1 – Nominated Laypersons*****40. Who is a Nominated Layperson?**

A person is a Nominated Layperson for a Synod if –

- (a) that person has been elected to be a Nominated Layperson for that Synod; and
- (b) notice of the election has been given to the Registrar under clause 45; and
- (c) the person has not retired as a Nominated Layperson under clause 46.

**41. Number of Nominated Laypersons**

- (1) The number of Nominated Laypersons for a Synod is the same as the number of Nominated Ministers for that Synod which the Archbishop has advised the Standing Committee under subclause 32(1) or (3).
- (2) The retirement of a Nominated Minister under clause 35 does not reduce the number of Nominated Laypersons for a Synod.

***Division 2 – Election of Nominated Laypersons*****42. Who elects persons to be Nominated Laypersons?**

The Standing Committee may elect persons to be Nominated Laypersons.

**43. Who may be elected to be a Nominated Layperson**

The Standing Committee may only elect a person to be a Nominated Layperson if –

- (a) that person is a Qualified Person; and
- (b) that person is not entitled to be summoned to a session of Synod under Part 5, 6 or 9 of this ordinance.

**44. When may persons be elected to be Nominated Laypersons?**

On receipt of advice from the Archbishop under clause 32 or at any time thereafter, the Standing Committee may, by resolution, elect Qualified Persons to be Nominated Laypersons.

**45. Notice must be given on the election of a Nominated Layperson**

Upon the election of a person to be a Nominated Layperson, the Standing Committee must give, or cause to be given, to the Registrar written notice –

- (a) specifying the name of that person and the date of election; and
- (b) specifying a postal and email address for that person; and
- (c) specifying the Synod for which that person has been elected to be a Nominated Lay Person; and
- (d) certifying that the person elected to be a Nominated Lay Person has given the consent required by clause 5A and that a written record of the consent has been retained.
- (e) certifying that the person elected to be a Nominated Lay Person had signed the declaration required by clause 6(1) and that the signed declaration has been retained.

***Division 3 – Retirement of Nominated Laypersons*****46. When does a person retire as a Nominated Layperson?**

A person retires as a Nominated Layperson if –

- (a) a Disqualifying Event occurs in respect of that person; or
- (b) that person resigns by written notice given to the Diocesan Secretary; or
- (c) the Standing Committee, by resolution, revokes the person's entitlement to hold office as a Nominated Layperson; or
- (d) the person becomes entitled to be summoned to Synod under Part 5, 6 or 9 of this ordinance.

**47. Notice must be given when a person retires as a Nominated Layperson**

When a person retires as a Nominated Layperson, the Standing Committee must give, or cause to be given, to the Registrar written notice specifying the name of that person and the date on which that person retired as a Nominated Layperson.

**48. A new Nominated Layperson may be elected to fill a vacancy**

A person may be elected by the Standing Committee to fill a vacancy in the office of a Nominated Layperson.

***Division 4 – Summoning of Nominated Laypersons to Synod*****49. Nominated Laypersons must be summoned to Synod**

Each Nominated Layperson is a member of the Synod for which that person has been elected and must be summoned to each session of that Synod convened after the date on which that person becomes a Nominated Layperson.

**50. What if a person retires as a Nominated Layperson after a summons has issued?**

If a person is summoned to a session of Synod as a Nominated Layperson and before the first day of that session the person retires as a Nominated Layperson, the summons is void.

**Part 8A – Nominated Indigenous Representatives*****Division 1 – Election of Nominated Indigenous Representatives*****50A. Who is a Nominated Indigenous Representative?**

A person is a Nominated Indigenous Representative for a Synod if –

- (a) that person has been elected to be a Nominated Indigenous Representative for that Synod; and
- (b) notice of the election has been given to the Registrar under clause 50C; and
- (c) the person has not retired as a Nominated Indigenous Representative under clause 50D.

**50B. Election of Nominated Indigenous Representatives**

(1) The Sydney Anglican Indigenous Peoples' Ministry Committee may elect up to 2 persons to be Nominated Indigenous Representatives.

(2) A person may be elected to be a Nominated Indigenous Representative if the person is –

- (a) an Indigenous Person,
- (b) a Qualified Person or Qualified Minister, and
- (c) not entitled to be summoned to a session of the Synod under any Part of this Ordinance other than Part 8A.

**50C. Notice must be given on the election of a Nominated Indigenous Representative**

Upon the election of a person to be a Nominated Indigenous Representative, the Sydney Anglican Indigenous Peoples' Ministry Committee must give, or cause to be given, to the Registrar written notice –

- (a) specifying the name of that person and the date of election; and
- (b) specifying a postal and email address for that person; and
- (c) specifying the Synod for which that person has been elected to be a Nominated Indigenous Representative; and
- (d) if the person elected to be a Nominated Indigenous Representative is a Qualified Person, certifying that the person has given the consent required by clause 5A and that the person has signed the declaration required by clause 6(1), and that a written record of the consent and the signed declaration have been retained.

***Division 2 – Retirement of Nominated Indigenous Representatives*****50D. When does a person retire as a Nominated Indigenous Representative?**

A person retires as a Nominated Indigenous Representative if –

- (a) a Disqualifying Event occurs in respect of that person, or
- (b) that person resigns by written notice given to the Chairman of the Sydney Anglican Indigenous Peoples' Ministry Committee, or
- (c) the person becomes entitled to be summoned to Synod under any Part of this Ordinance other than Part 8A.

**50E. Notice must be given when the person retires as a Nominated Indigenous Representative**

When a person retires as a Nominated Indigenous Representative, the Sydney Anglican Indigenous Peoples' Ministry Committee must give, or cause to be given, to the Registrar written notice specifying the name of that person and the date on which that person retired as a Nominated Indigenous Representative.

**50F. A new Nominated Indigenous Representative may be elected to fill a vacancy**

A person may be elected by the Sydney Anglican Indigenous Peoples' Ministry Committee to fill a vacancy in the office of a Nominated Indigenous Representative.

***Division 3 – Summoning of Nominated Indigenous Representative to Synod***

**50G. Nominated Indigenous Representatives must be summoned to the Synod**

Each Nominated Indigenous Representative is a member of the Synod for which that person has been elected and must be summoned to each session of that Synod convened after the date on which that person becomes a Nominated Indigenous Representative.

**50H. What if a person retires as a Nominated Indigenous Representative after a summons has issued?**

If a person is summoned to a session of Synod as a Nominated Indigenous Representative and before the first day of that session the person retires as a Nominated Indigenous Representative, the summons is void.

**Part 9 – Other Members of Synod**

**51. The Chancellor**

The Chancellor is a member of the Synod and must be summoned to each session of the Synod.

**52. The Registrar**

The Registrar is a member of the Synod and must be summoned to each session of the Synod.

**52A. Diocesan Secretary**

The Diocesan Secretary is a member of the Synod and must be summoned to each session of the Synod.

**52B. Regional Bishops**

The Regional Bishops are members of the Synod and must be summoned to each session of the Synod.

**52C. Archdeacon for Women's Ministry**

The Archdeacon for Women's Ministry is a member of the Synod and must be summoned to each session of the Synod.

**52D. Principal of Moore Theological College**

The Principal of Moore Theological College is a member of the Synod and must be summoned to each session of the Synod.

**53. Warden of St Paul's College and College Representatives**

(1) The Warden of St Paul's College is a member of the Synod and must be summoned to each session of the Synod.

(2) Two Qualified Persons, elected by the council of St Paul's College from among themselves, must, subject to the giving of the notice under subclause (3), be summoned to the Synod.

(3) The Warden must cause a certificate of election to be delivered to each member of the council so elected and must give, or cause to be given, to the Registrar written notice –

- (a) specifying the names of the persons elected and the date of election; and
- (b) specifying postal and email addresses for those persons; and
- (c) certifying that those persons have given the consent required by clause 5A and that a written record of such consents has been retained.

**Part 10 – Transitional**

**54. Commencement and Transitional**

(1) Parts 2 to 8 inclusive and Part 9 and clause 55 commence on the last to occur of –

- (a) the date on which the Constitution Ordinance 1994 of the Provincial Synod is adopted by the Synod of each diocese in the Province of New South Wales; and
- (b) the passing of a canon of the General Synod ratifying the Constitution Ordinance 1994 of the Provincial Synod.

- (2) With effect on and from the date of commencement of Parts 2 to 8 inclusive and Part 9 –
- (a) persons who, immediately before that date, were representatives of a Parochial Unit elected for a Synod under the Former Legislation are taken to be Parochial Representatives duly elected for that Synod under Part 5;
  - (b) persons who, immediately before that date, were nominated chief executive officers for a Synod under clause 2A of the Synod Representative and Membership Ordinance 1945 are taken to be duly appointed Chief Executive Officers of a Nominated Organisation for that Synod under Part 6;
  - (c) clergymen who, immediately before that date, were eligible to be summoned to a session of Synod under the 14th Constitution Ordinance 1988 are taken to be duly appointed Nominated Ministers for that Synod under Part 7; and
  - (d) laypersons who, immediately before that date, were eligible to be summoned to a session of Synod under the Regulations made by the Synod on 23 September 1903 under the 14th Constitution in the Schedule to the Anglican Church of Australia Constitutions Act 1902 are taken to be duly appointed Nominated Laypersons for that Synod under Part 8.
- (3) A declaration made by a person under the 17th Constitution in the Schedule to the Anglican Church of Australia Constitutions Act 1902 for the purposes of the Synod which is current on the date on which 2 to 8 inclusive and Part 9 commence are taken to have been made under clause 6.

### **55. Repeal of Former Legislation**

The Former Legislation is repealed but without invalidating anything done under or pursuant to it before the commencement of this clause.

#### **Dictionary**

In this ordinance unless the context otherwise requires –

“Associate Minister” means an assistant minister or a senior assistant minister within the meaning of the Assistant Ministers Ordinance 1990.

“Chief Executive Officer” of a diocesan board, department or organisation means the person who is responsible to the governing body of the board, department or organisation for the work of the organisation.

“Disqualifying Event” in relation to a person means any of the following –

- (a) the death of that person;
- (b) becoming an insolvent under administration;
- (c) becoming a mentally incapacitated person;

“Former Legislation” means each of the following (as amended) –

- (a) Synod Representative and Membership Ordinance 1945;
- (b) 14th Constitution Ordinance 1988; and
- (c) regulations made by the Synod on 23 September 1903 under the 14th of the Constitutions contained in the Schedule to the Anglican Church Constitutions Act Amendment Act of 1902.

“General Meeting” means –

- (a) in relation to a Parochial Unit having only one church to which the rules in Schedule 1 of the Parish Administration Ordinance 2008 apply – a general meeting of the parishioners of the church of the Parochial Unit, and
- (b) in relation to a Parochial Unit having more than one church to which the rules in Schedule 1 of the Parish Administration Ordinance 2008 apply or in relation to a Parochial Unit to which the rules in Schedule 2 of that ordinance apply – a general meeting of the parishioners of the Parochial Unit, and
- (c) in relation to St Andrew’s Cathedral – the Annual Meeting of the Cathedral Congregations under the Cathedral Ordinance 1969.

“Indigenous Person” means a person of the Aboriginal race of Australia or who is a descendant of the Indigenous inhabitants of the Torres Strait Islands.

“Minister” means a person in holy orders.

“Nominated Indigenous Representative” for a Synod means a person to whom clause 50A applies.

“Nominated Layperson” for a Synod means a person to whom clause 40 applies.

“Nominated Minister” for a synod means a person to whom clause 31 applies.



“Nominated Organisation” for a Synod means a diocesan board, department or organisation that, in accordance with clause 23, is a nominated organisation for the Synod.

“Parish” means a parish constituted under or recognised as such under the Parishes Ordinance 1979 or a recognised church under the Recognised Churches Ordinance 2000.

“Parochial Minister” means a Minister who is licensed as the rector or acting rector of a Parochial Unit.

“Parochial Representative” for a Synod means a person to whom clause 9 applies.

“Parochial Unit” means a Parish and a Provisional Parish.

“Provisional Parish” means a provisional parish constituted under or recognised as such under the Parishes Ordinance 1979 or a provisional recognised church under the Recognised Churches Ordinance 2000.

“Qualified Minister” means a Minister who is authorised or licensed to officiate by the Archbishop.

“Qualified Person” means a layperson who –

- (a) is 18 years of age or older; and
- (b) is a communicant member of the Anglican Church of Australia.

“session of the Synod” means all meetings of the Synod to which a summons issued to members of the Synod applies.

“Synod Communication” means a summons, notice, document or other communication that is –

- (a) required by ordinance or resolutions of the Synod or the Standing Committee to be sent or provided to one or more members of the Synod; or
- (b) sent or provided to all members of the Synod or a class of members of the Synod by the Diocesan Secretary or the Secretary of the Synod in the course of administering the Synod.

“Wardens” means –

- (a) in relation to a Parochial Unit to which the rules in Schedule 1 of the Parish Administration Ordinance 2008 apply – the wardens of the principal or only church of the Parochial Unit, and
- (b) in relation to a Parochial Unit to which the rules in Schedule 2 of the Parish Administration Ordinance 2008 apply – the wardens of the Parochial Unit, and
- (c) in relation to St Andrew’s Cathedral – the Cathedral Chapter.

---

### Note

The amendments made by Ordinance No 34, 2015 commence on the day immediately following the last day of the 2nd session of the 50<sup>th</sup> Synod.

### Table of Amendments

Clause 4	Amended by Ordinance No 29, 2000.
Clause 5	Amended by Ordinance No 26, 2006.
Clause 5A	Inserted by Ordinance No 41, 2013 and amended by Ordinance No 38, 2014.
Clause 6	Amended by Ordinances Nos 46, 2003; 26, 2006; 32, 2009 and 34, 2015.
Clause 6A	Inserted by Ordinance No 41, 2013.
Clause 6B	Inserted by Ordinance No 41, 2013.
Clause 6C	Inserted by Ordinance No 41, 2013.
Clause 8A	Inserted by Ordinance No 46, 2003 and amended by Ordinance No 41, 2013.
Clause 8B	Inserted by Ordinance No 46, 2003.
Clause 8C	Inserted by Ordinance No 46, 2003.
Clause 11	Amended by Ordinance No 35, 1997.
Clause 12	Amended by Ordinance No 34, 2015.
Clause 13	Amended by Ordinance No 34, 2015.
Clause 14	Amended by Ordinance No 34, 2015.
Clause 15	Amended by Ordinance No 34, 2015.
Clause 16	Amended by Ordinance No 34, 2015.

Clause 17	Amended by Ordinances Nos 41, 2013 and 34, 2015.
Clause 18	Amended by Ordinances Nos 29, 1997; 34, 2015 and 42, 2016.
Clause 19	Amended by Ordinance No 34, 2015.
Clause 20	Amended by Ordinance No 34, 2015.
Clause 22A	Inserted by Ordinance No 46, 2003 and amended by Ordinances Nos 41, 2013; 34, 2015 and 42, 2016.
Clause 22B	Inserted by Ordinance No 46, 2003.
Clause 22C	Inserted by Ordinance No 46, 2003.
Clause 25	Amended by Ordinances Nos 47, 2003 and 42, 2016.
Clause 27	Amended by Ordinance No 41, 2013.
Clause 28	Amended by Ordinance No 41, 2013.
Clause 29	Amended by Ordinance No 41, 2013.
Clause 34	Amended by Ordinance No 41, 2013.
Clause 35	Amended by Ordinance No 42, 2016.
Clause 36	Amended by Ordinance No 41, 2013.
Clause 45	Amended by Ordinances Nos 41, 2013 and 34, 2015.
Clause 46	Amended by Ordinance No 42, 2016.
Clause 50A	Inserted by Ordinance 26, 2006 and amended by Ordinance No 32, 2009.
Clause 50B	Inserted by Ordinance 26, 2006. Omitted and new clause inserted by Ordinance No 32, 2009.
Clause 50C	Inserted by Ordinance 26, 2006 and amended by Ordinances Nos 41, 2013 and 34, 2015.
Clause 50D	Inserted by Ordinance 26, 2006 and amended by Ordinance No 32, 2009.
Clause 50E	Inserted by Ordinance 26, 2006.
Clause 50F	Inserted by Ordinance 26, 2006.
Clause 50G	Inserted by Ordinance 26, 2006.
Clause 50H	Inserted by Ordinance 26, 2006.
Clause 52A	Inserted by Ordinance No 47, 2003.
Clause 52B	New clause inserted by Ordinance No 42, 2016.
Clause 52C	New clause inserted by Ordinance No 42, 2016.
Clause 52D	New clause inserted by Ordinance No 42, 2016.
Clause 53	Amended by Ordinance No 41, 2013.
Clause 54	Amended by Ordinance No 26, 2006.
Dictionary	Amended by Ordinances Nos 35, 1997; 46, 2003; 39, 2004; 26, 2006; 32, 2009; 41, 2013; 38, 2014 and 34, 2015.

