

66/19 Review of the *Standing Committee Ordinance 1897*

Amendments to: the *Synod Elections Ordinance 2000*, the *Standing Committee Ordinance 1897*, the *Synod Membership Ordinance 1995*

(A report of the Standing Committee.)

Key Points

Synod Elections Ordinance 2000 Amendment Ordinance 2021 ('Synod Elections Bill')

- The first session of the 52nd Synod was not convened in 2020 as a result of the COVID-19 public health order restrictions on mass gatherings. The Archbishop-in-council made certain regulations to enable the Synod elections for the first session of the 52nd Synod to be conducted by online ballot rather than at a session of the Synod.
- The Synod Elections Bill will insert a procedure for conducting elections by online ballot where it is impossible or impractical to conduct an election at an ordinary session of the Synod or to convene a session of the Synod. The proposed procedure mirrors the procedure that the Standing Committee made by regulation to conduct the elections in October 2020.

Standing Committee Ordinance 1897 Amendment Ordinance 2021 ('Standing Committee Bill')

- The Standing Committee Bill will replace the current provisions for a postal ballot to fill casual vacancies in the office of Regional Elected Member of the Standing Committee, with provisions for the conduct of online ballots.
- The Standing Committee Bill also provides for existing members of Standing Committee who would otherwise become disqualified for membership as a result of regional boundary changes, to continue until the end of their then-current term.

Synod Membership Ordinance 1995 Amendment Ordinance 2021 ('Synod Membership Bill')

- The Synod Membership Bill will remove the right for the Diocesan Secretary to vote at sessions of the Synod. This amendment has been requested by the Diocesan Secretary.

Purpose

1. The purpose of this report is to explain the effect of the Synod Elections Ordinance 2000 Amendment Ordinance 2021 (the **Synod Elections Bill**), the Standing Committee Ordinance 1897 Amendment Ordinance 2020 (the **Standing Committee Bill**) and Synod Membership Ordinance 1995 Amendment Ordinance 2021 (the **Synod Membership Bill**).

Recommendations

2. Synod receive this report.
3. Synod pass the Bills for the –
 - (a) Synod Elections Ordinance 2000 Amendment Ordinance 2021,
 - (b) Standing Committee Ordinance 1897 Amendment Ordinance 2021, and
 - (c) Synod Membership Ordinance 1995 Amendment Ordinance 2021as ordinances of the Synod.

Background

A. Synod Elections Ordinance 2000 Amendment Ordinance 2021

4. The first session of the 52nd Synod was due to be convened in 2020. However the public health order restrictions applying to mass gatherings as a result of the COVID-19 pandemic made it unlawful to hold a session of the Synod at that time. The Synod was therefore not convened in 2020.

5. During its ordinary sessions, the Synod conducts ballots to fill vacancies in offices and positions within numerous diocesan schools and organisations. If Synod elections are not held in a year (particularly the first year of a Synod), the election cycle for the respective offices and position will be thrown out of kilter, resulting in some persons holding office for shorter durations than usual and others holding office for longer durations. Some persons would have also been intending to retire from their office or position at the session which, if not held, would lead to the need to choose between continuing for another year or resigning and creating a casual vacancy.
6. The *Synod Elections Ordinance 2000* contains provisions that allow the Archbishop-in-Council to make regulations for some “matter or thing not provided for in the rules which may be necessary for an election to be conducted effectively”. The *Synod Elections Ordinance 2000* contemplates elections being held outside of a session but does not have a procedure for conducting those elections. The Archbishop-in-Council therefore made a regulation to conduct the elections for the first session of the 52nd Synod by online ballots in 2020.
7. The Synod Elections Bill will amend the *Synod Elections Ordinance 2000* to insert a procedure for conducting elections by online ballot where it is impossible or impractical to conduct an election at an ordinary session of the Synod or to convene a session of the Synod. The proposed procedure mirrors the procedure that the Archbishop-in-Council made by regulation to conduct the elections for the first session of the 52nd Synod. It is preferable for the procedure to be set out in the Principal Ordinance rather than as a regulation of the Archbishop-in-Council.

Sub-rule 1.2(3): Communications by electronic means

8. Clause 2(a) of the Synod Elections Bill will insert a new interpretive provision so that where the *Synod Elections Ordinance 2000* refers to sending or delivering something this will include doing so by electronic means. The majority of communications in respect to elections are now conducted electronically.

Rule 8.2: Impossibility or impracticality etc of conducting an election or convening an ordinary session of the Synod

9. Clause 2(b) of the Synod Elections Bill will amend the existing rule in respect to circumstances where it is impossible or impractical to conduct an election or convene an ordinary session of the Synod.
10. Rule 8.2 does not directly address the circumstance where it is impossible or impracticable to convene the session of Synod, however it is impossible to conduct an election if a session cannot be convened. The amendment will expressly include a circumstance where it is impossible or impracticable to convene a session as being within the ambit of rule 8.2.
11. The more significant amendment is the insertion of a new sub-rule 8.2(2). The *Synod Elections Ordinance 2000* does not presently contain any provisions for conducting elections remotely outside a session of the Synod. Rule 8.5 empowers the Archbishop-in-Council to make regulations with respect to any “matter or thing not provided for in the rules which may be necessary for an election to be conducted effectively”. In 2020, the Archbishop-in-Council relied on rule 8.5 to make regulations for online ballots since the *Synod Elections Ordinance 2000* does not currently contain a procedure for conducting elections following a determination under rule 8.2. If the Synod Elections Bill is passed, the rules for conducting elections in any future circumstance where the Synod cannot be convened will be those set out in the Second Schedule of the Synod Elections Bill.
12. For completeness, it should be noted that the existing sub-rule 8.2(2) does refer to conducting such an election in the same manner as an election conducted prior to the first appointed day of the session. However there are in fact no such provisions in the Ordinance. The words in the existing rule 8.2(2) are referring to a procedure for postal ballots that was removed from the Ordinance in 2013 by the *Synod Elections (Efficiency and Transparency) Amendment Ordinance 2013*. Rule 8.2 should have been amended at the same time but was not. As it turns out, that oversight has been helpful in creating the basis for regulations to be made by the Archbishop-in-Council.

Second Schedule: Substituted rules where it is impossible or impractical to conduct an election at an ordinary session of the Synod or convene a session

13. Clause 2(c) of the Synod Elections Bill will insert a Second Schedule in the *Synod Elections Ordinance 2000* which sets out the election procedure that will apply if a determination is made under

rule 8.2 that it is impossible or impractical to conduct an election at an ordinary session of the Synod or to convene a session. In such event, Parts 4 and 5 in the Second Schedule will apply in place of Parts 4 and 5 in the main Schedule that regulate elections conducted at a session of the Synod.

Uncontested elections

14. In the case of an unconsented election, the only act that would ordinarily be undertaken at a session of the Synod is the declaration that the relevant persons are elected to their respective offices. Rule 4.1 (Sch 2) will provide for notification of those elected by the Returning Officer posting a notice on the “nominated website address” (being the address that is specified in the notice of election under rule 3.1).

Contested elections

15. The timeline and general procedures for contested elections by online ballot are based on the provisions for postal ballots that were removed from the *Synod Elections Ordinance 2000* in 2013 by the *Synod Elections (Efficiency and Transparency) Amendment Ordinance 2013*, but replacing references to paper forms and physical posting with electronic substitutes.
16. The online ballot will involve the use of a third party survey engine (e.g., SurveyMonkey) to send a unique link to each member, setup in such a way to provide both anonymity and assurance of only one vote per member.
17. Rule 5.1(b) (Sch 2) will make provision for members to submit material in support of a nominee for publication on an unadvertised but publicly accessible page on the SDS website. The material must be provided in completed form within 4 business days of the notice of contested election being posted and be approved in writing by every person referred to in the material (where reasonable to do so), including any nominee and their nominators, whether referred to by name or not.

B. Standing Committee Ordinance 1897 Amendment Ordinance 2020

18. One effect of the Standing Committee Bill is to replace the current provisions in the *Standing Committee Ordinance 1897* with respect to filling casual vacancies in the office of Regional Elected Member of the Standing Committee by postal ballot with provisions for the conduct of online ballots. The procedures for online ballots in the *Synod Elections Ordinance 2000* (i.e., those described above) will apply as if the Archbishop-in-Council had made a determination under rule 8.2 of that Ordinance.
19. The Standing Committee Bill will also amend the casual vacancy provision in subclause 2(1)(h) concerning Regional Elected Members who cease to be from the Region for which they have been elected. An exception will be inserted to provide that a casual vacancy does not arise where a person ceases to be from the Region as a result of an alteration to the boundaries of the Region. The Archbishop has altered certain Regional Boundaries with effect from 1 July 2021. These alterations would, but for the proposed amendment, result in casual vacancies for several members of the Standing Committee. The amendment will mean that those members will, all else being equal, continue to hold office until the first session of the 53rd Synod.
20. The Standing Committee Bill will further remove the right for the Diocesan Secretary to vote at meetings of the Standing Committee. This amendment was requested by the Diocesan Secretary.
21. Finally, the Standing Committee Bill will correct an infelicity whereby the *Standing Committee Ordinance 1897* refers to the “first session of the next Synod” instead of the “first ordinary session of the next Synod”.

C. Synod Membership Ordinance 1995 Amendment Ordinance 2021

22. The Synod Membership Bill will remove the right for the Diocesan Secretary to vote at sessions of the Synod. This amendment has been requested by the Diocesan Secretary.

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Diocesan Secretary

7 April 2021