

General Synod 2001 Legislation

(A report from the Standing Committee.)

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Introduction

1. Under the constitution ("Constitution") of the Anglican Church of Australia (set out in the Schedule to the Anglican Church of Australia Constitution Act 1961 - see pages 4 to 34 inclusive of *Acts, Ordinances & Regulations (2002 Edition)*), the General Synod has power to make canons for the order and good government of the church. The General Synod also has power, by canon, to amend the Constitution.

2. Not all canons come into effect when they are passed. For example, where a canon affects the order and good government of the Church in a diocese then, under the Constitution, the canon does not come into effect in that diocese unless the diocese, by ordinance, *adopts* the canon. Further, a canon to amend the Constitution only comes into effect if the requisite number of dioceses *assent* to the canon. In the case of certain provisions of the Constitution the canon only comes into effect if it receives *assent* from all dioceses.

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

Canons passed by the General Synod in 2001

4. In 2001 the General Synod passed the following canons -
- Alteration of the Constitution of the Province of Queensland Ratification Canon 2001*
 - Anglican Board of Missions - Australia Canon 2001*
 - Canons Amendment (Bishop to the Defence Force) Canon 2001*
 - Chancellors Canon 2001*
 - Constitution Alteration (Special Tribunal) Canon 2001*
 - Constitution Alteration (Suspension from Duties) Canon 2001*
 - Constitution Alteration (Tribunals) Amendment Canon 2001*
 - General Board of Religious Education (Repeal) Canon 2001*
 - Holy Communion Canon 2001*
 - Liturgy Publishing Canon 2001*
 - Long Service Leave (Amendment) Canon 2001*
 - NSW Provincial Synod Constitution Amendment Ratification Canon 2001*
 - Primate Canon (Amendment) Canon 2001*
 - Special Tribunal Procedure Amendment and Repeal Canon 2001*
 - Strategic Issues, Task Forces and Other Bodies Amendment Canon 2001*

Canons in force

5. The following canons have taken effect as canons ratifying amendments to the constitution of a province under section 41 of the Constitution in circumstances where consent to the amendments has already been given by all the dioceses of the province -

- NSW Provincial Synod Constitution Amendment Ratification Canon 2001*
- Alteration of the Constitution of the Province of Queensland Ratification Canon 2001*

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

- Anglican Board of Missions - Australia Canon 2001*
- General Board of Religious Education (Repeal) Canon 2001*
- Liturgy Publishing Canon 2001*
- Primate Canon (Amendment) Canon 2001*
- Strategic Issues, Task Forces and Other Bodies Amendment Canon 2001*

Canons for adoption by our Synod

7. The following canons affect the order and good government of the Church in a diocese and must be adopted by our Synod before they have effect in Sydney -

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Chancellors Canon 2001
Holy Communion Canon 2001
Long Service Leave (Amendment) Canon 2001
Special Tribunal Procedure Amendment and Repeal Canon 2001

8. The Standing Committee recommends that each of the canons referred to in 7 be adopted. See the separate explanatory statements and bills.

Canons for assent by our Synod

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

Constitution Alteration (Special Tribunal) Canon 2001
Constitution Alteration (Suspension from Duties) Canon 2001
Constitution Alteration (Tribunals) Amendment Canon 2001

10. The Standing Committee recommends that assent be given to each of the canons referred to in 9: see the separate explanatory statements and bills.

Canons Amendment (Bishop to the Defence Force) Canon 2001

11. The *Canons Amendment (Bishop to the Defence Force) Canon 2001* amends the Defence Force Ministry Canon 1985 to enable a person to be consecrated as Bishop to the Defence Force where the person appointed does not already hold episcopal office. The canon also makes certain minor amendments to the Defence Force Board Canon 1985.

12. In 1985 the Standing Committee declared under section 30(c) of the Constitution that the Defence Force Ministry Canon 1985 affects the order and good government of the Church within our Diocese. The General Synod Standing Committee accepted this declaration and since our Synod has not subsequently adopted the Defence Force Ministry Canon 1985, it is not in force in Sydney.

13. To avoid any argument that Sydney now accepts the Defence Force Ministry Canon 1985, the Standing Committee has also declared that the *Canons Amendment (Bishop to the Defence Force) Canon 2001* affects the order and good government of the Church within our Diocese. The Standing Committee has notified the President of the General Synod of such declaration. As at the date of printing no advice has been received that the General Synod Standing Committee agrees with the opinion expressed in the declaration.

14. The Standing Committee has not recommended any further action in relation to this canon. A copy of this canon is set out in the annexure to this report.

Summary of recommendations

15. Except in relation to the Canons Amendment (Bishop to the Defence Force) Canon 2001, the Standing Committee recommends that Synod adopt or assent, as the case may be, all canons made by the General Synod in 2001, being canons which require the adoption or assent of Sydney.

For and on behalf of the Standing Committee.

ROBERT WICKS
Legal Officer

13 August 2002

Annexure

Canons Amendment (Bishop to the Defence Force) Canon 2001

Canon No. 6, 2001

A canon to amend the Defence Force Ministry Canon 1985 and the Defence Force Board Canon 1985

The General Synod prescribes as follows:

1. This canon may be cited as the "Canons Amendment (Bishop to the Defence Force) Canon 2001".

2. Section 2 of the Defence Force Ministry Canon 1985 is deleted and the following sections are inserted in lieu thereof:

"2. In this canon -

"Bishop to the Defence Force" means the bishop appointed and holding office from time to time under this canon;

"Defence Force Board" means the Defence Force Board constituted under the Defence Force Board Canon 1985.

2A. (1) The Primate may, with the approval of a majority of the Metropolitans and of the Defence Force Board, appoint a person in Holy Orders to the office of Bishop to the Defence Force.

(2) If the person so appointed is not already a bishop, the person shall not be consecrated as bishop unless the canonical fitness of the appointee shall have been certified in writing by the Primate and the Metropolitans.

(3) A person appointed to the office of Bishop to the Defence Force shall not enter upon the office unless consecrated as bishop.

2B. (1) Before making an appointment to the office of Bishop to the Defence Force, the Primate shall obtain from the Defence Force Board notification of the stipend and allowances to be paid or provided as the case may be to the Bishop to the Defence Force.

(2) No appointment as Bishop to the Defence Force shall be made by the Primate until a majority of the Metropolitans have informed him in writing that they are satisfied that sufficient stipend and allowances will be provided for the occupant of the office."

3. Section 4 of the Defence Force Ministry Canon 1985 is amended by inserting after the word "provided" the words "that

the Bishop to the Defence Force shall continue in office notwithstanding any vacancy in the office of Primate and provided further”.

4. Section 4 of the Defence Force Board Canon 1985 is amended by -

(a) deleting paragraph (c) and by inserting in lieu thereof the following new paragraph:

“(c) to consult with and to give advice to the Bishop to the Defence Force;” and

(b) adding at the end of paragraph (d) the words:

“and in providing for the Bishop to the Defence Force.”