

General Synod 2022 Legislation

(A report of the Standing Committee.)

Key Points

- It is recommended that Synod –
 - (a) assent to the *Constitution Amendment (Mandatory Suspension) Canon 2022*,
 - (b) assent to the *Constitution Amendment (Mandatory Deposition) Canon 2022*,
 - (c) adopt the *Safe Ministry Legislation Amendments Canon 2022*, and
 - (d) not adopt the *Episcopal Standards Investigations Amendment Canon 2022*.
- Some amendments in the *Safe Ministry Legislation Amendments Canon 2022* relate to principal canons that are not in force in Sydney. Some of these amendments should be given effect by separately amending the *Safe Ministry to Children Ordinance 2020*.

Purpose

1. The purpose of this report is to outline the Standing Committee's recommendations with respect to legislation passed by the General Synod in 2022.
2. The report provides an overview of the legislation. A detailed explanation is provided in the explanatory reports accompanying those canons which are recommended for adoption or assent.

Recommendations

3. Synod receive this report.
4. Synod –
 - (a) assent to the *Constitution Amendment (Mandatory Suspension) Canon 2022*,
 - (b) assent to the *Constitution Amendment (Mandatory Deposition) Canon 2022*,
 - (c) adopt the *Safe Ministry Legislation Amendments Canon 2022*, and
 - (d) not adopt the *Episcopal Standards Investigations Amendment Canon 2022*.

Background

5. Under the constitution of the Anglican Church of Australia in the Schedule to the *Anglican Church of Australia Constitution Act 1961 (the Constitution)*, 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.
6. 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, the canon does not come into effect in that diocese unless the diocese *adopts* the canon by ordinance. Further, a canon to amend the Constitution only comes into effect if the requisite number of diocesan synods report their *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.

18th General Synod

7. The 18th General Synod was held on the Gold Coast from 8–13 May 2022.
8. The 18th General Synod consisted of 249 members of whom 73 were from the Diocese of Sydney. Resolutions, canons and rules were passed at the session, and elections also took place for General

Synod boards and committees. A report outlining these matters was provided to the Synod at its session in September 2022.

Canons passed by the General Synod in 2022

9. In 2022, the General Synod passed the following canons –
- Canon 01/22 – Eighteenth General Synod Participation Canon 2022 **
 - Canon 02/22 – Constitution (Repeal of Canon No 9 of 2010) Canon 2022 **
 - Canon 03/22 – National Aboriginal and Torres Strait Islander Anglican Council Amendment Canon 2022 **
 - Canon 04/22 – Defence Force Ministry (Amendment) Canon 2022 **
 - Canon 05/22 – Long Service Leave (Sabbatical Allowance Amendment) Canon 2022 **
 - Canon 06/22 – Strategic Issues, Commissions, Task Forces and Networks Amendment Canon 2022 **
 - Canon 07/22 – Constitution Amendment (Mandatory Suspension) Canon 2022*
 - Canon 08/22 – Constitution Amendment (Mandatory Deposition) Canon 2022*
 - Canon 09/22 – Episcopal Standards (Child Protection) (Amendment) Canon 2022*
 - Canon 10/22 – Special Tribunal (Removal from Office) Canon 2022 **
 - Canon 11/22 – Safe Ministry Legislation Amendments Canon 2022*
 - Canon 12/22 – Episcopal Standards Investigations Amendment Canon 2022*
 - Canon 13/22 – General Synod Presence Canon 2022 **

Canons already in force

10. Several of the canons passed by the General Synod in 2022 have taken effect because they do not affect the order and good government or the church trust property of the Church in a diocese. These canons are marked with a single asterisk (*) in the above list.

Canons adopted by our Synod in 2022

11. At its session in September 2022, our Synod adopted *Canon 09/22 – Episcopal Standards (Child Protection) (Amendment) Canon 2022*.

Canons recommended for assent by our Synod in 2023

12. It is recommended that the Synod assent to the *Constitution Amendment (Mandatory Suspension) Canon 2022* and the *Constitution Amendment (Mandatory Deposition) Canon 2022*.
13. Both canons amend the Constitution and will not come into effect until at least three-quarters of the diocesan synods (including all the metropolitan sees) have assented to the canon by ordinance (with all such assents to be in force at the same time).
14. Clause 5.2(3) of the *Synod Standing Orders Ordinance 2019* requires that, if a proposed ordinance seeks 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 Australia Constitution Act 1961*, a copy of the proposed ordinance be sent to each member of Synod at least 3 months before the first day of the session at which the proposed ordinance is to be considered. Accordingly, a copy of the proposed ordinances were sent to Synod members on 9 June 2023.

Canon 07/22 – Constitution Amendment (Mandatory Suspension) Canon 2022

15. The *Constitution Amendment (Mandatory Suspension) Canon 2022* creates a Constitutional requirement for mandatory suspension of a Bishop charged with a sexual offence relating to a child. The Canon also inserts a definition of “sexual offence relating to a child” to mean a conviction or charge of sexual activity against, with or in the presence of a child, or the possession, production or distribution of any form of child pornography.

Canon 08/22 – Constitution Amendment (Mandatory Deposition) Canon 2022

16. The *Constitution Amendment (Mandatory Deposition) Canon 2022* creates a Constitutional requirement for mandatory deposition of person convicted of a sexual offence relating to a child committed while a member of the clergy. The phrase “sexual offence relating to a child” as the same meaning as quoted above.

Canons recommended for adoption by our Synod in 2023

17. It is also recommended that the Synod adopt the *Safe Ministry Legislation Amendments Canon 2022*.
18. This Canon amends the following principal canons for the purpose of implementing certain recommendations of the Royal Commission into Institutional Response to Child Sexual Abuse and to make other technical amendments:
- (a) Chancellors Canon 2001 **;
 - (b) Episcopal Standards (Child Protection) Canon 2017;
 - (c) National Register Canon 2007;
 - (d) Offences Canon 1962;
 - (e) Safe Ministry to Children Canon 2017 **;
 - (f) Special Tribunal Canon 2007;
 - (g) Episcopal Standards Canon 2007 **.
19. The principal canons marked with a double asterisk (**) in the above list have not been adopted in the Diocese of Sydney. The *Safe Ministry Legislation Amendments Canon 2022* includes provisions which allow each its parts and divisions to be adopted separately, however the parts and divisions are structured on the basis of subject-matter rather than the canons they amend. Nonetheless the amendments to the principal canons that are not in force in Sydney are not capable of having effect on their own without adoption of the principal canons and will therefore not have any substantive operation in the Diocese.
20. Although the Diocese of Sydney has not adopted the *Safe Ministry to Children Canon 2017 (the Canon)*, it has passed equivalent legislation in the form of the *Safe Ministry to Children Ordinance 2020 (the Ordinance)*. Certain amendments should be made to the Ordinance to ensure implementation of the recommendations of the Royal Commission and to maintain parity with the standards in the Canon. Other amendments are unnecessary because they relate to laws that are not in force in NSW and are only dealt with in the Canon because it operates nationally or are unnecessary due to differences between the Canon and the Ordinance (for example, the auditing regime).
21. It is anticipated that the proposed amendments to the *Safe Ministry to Children Ordinance 2020* will be printed separately.

Canons not recommended for adoption by our Synod

22. The *Episcopal Standards Investigations Amendment Canon 2022* expands the discretion of the Episcopal Standards Commission to decide whether or not to investigate allegations of conduct which might call into question the fitness of a Bishop to hold office.
23. The principal canon (the *Episcopal Standards Canon 2007*) is not in force in the Diocese of Sydney. There would be no utility in adopting the amendments and therefore it is recommended that the Synod not adopt this Canon.

For and on behalf of the Standing Committee.