

General Synod – Constitution Alteration (Miscellaneous Sections) Canon 1992 Assenting Ordinance 1993

Explanatory Statement

Introduction

1. The Constitution Alteration (Miscellaneous Sections) Canon 1992 ("Canon") was passed by the General Synod in 1992. The text of the Canon is set out in the Schedule to the bill.
2. Under the constitution ("Constitution") of the Anglican Church of Australia, being the schedule to the Anglican Church of Australia Constitution Act 1961, the amendments to the Constitution made by the Canon do not have effect unless and until at least three-quarters of the diocesan synods including all the metropolitan sees have assented to it by ordinance and all the assents are in force at the same time.

Canon No 14, 1992

3. The purpose of the Canon is to make 3 changes to the Constitution –
 - (a) to reduce the age limit, for certain purposes of the Constitution, from 21 to 18;
 - (b) to permit the General Synod, by canon, to widen the qualification required of lay persons eligible for appointment to the Appellate Tribunal so as to take account of changes which have and which may in the future take place in the Australian Court System; and
 - (c) to remove references to "missionary dioceses" from the Constitution.

Age Limit

4. Section 17(6) of the Constitution provides –

"Every layman who is not under the age of twenty-one years and is a communicant of this church shall be qualified to be a lay representative of a diocese, whether he does or does not reside therein."
5. The term "parishioner" is defined in section 74(1) of the Constitution to mean –

"a member of the 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 twenty-one years of age".
6. Under the Canon the age limit in both provisions will be reduced to 18 years.

Laypersons on Appellate Tribunal

7. Section 57 of the Constitution provides that the Appellate Tribunal shall consist of 7 members, 3 of whom shall be diocesan bishops and 4 of whom shall be layman. The section prescribes the qualification of a lay person in the following terms –

"A layman shall not be a member unless he is qualified to be a lay representative of a diocese, and is or has been a Justice of the High Court of Australia, a Justice of the Supreme Court of a State or a practising barrister or solicitor of at least ten year's standing of the Supreme Court of a State."

8. In order to reflect changes which have taken place in the Australian Court System and to enable General Synod, by canon, to widen the qualifications, in the sentence referred to in 7. the words "State or Territory of Australia or a Justice or Judge of a Court prescribed by Canon of the General Synod or is or has been" will be substituted for "State, or".

Missionary Diocese

9. The term "missionary diocese" is defined in section 74(1) of the Constitution to mean each of –

"the Diocese of New Guinea, the Diocese of North-West Australia, the Diocese of Carpentaria, and any other diocese formed as a missionary diocese under this Constitution."
10. Under the Canon the definition will be deleted and consequential changes made to remove all references to "missionary diocese" from the Constitution. This amendment is made because references to missionary dioceses in the Constitution seem to serve no useful purpose and the present arrangements (and any future arrangements) will be more effectively and simply implemented by a canon of General Synod.

Recommendation

11. The Standing Committee recommends that Synod assent to the Canon.

For and on behalf of the Standing Committee

MARK PAYNE

Legal Officer

1 September 1993