

General Synod - Constitution Alteration (Tribunals) Canon 1998 Assenting Ordinance 2002

No 54, 2002

An Ordinance to assent to Canon No 10, 1998 and Canon No 8, 2001 of the General Synod of the Anglican Church of Australia.

The Synod of the Diocese of Sydney Ordains -

1. Name of Ordinance

This Ordinance is the General Synod - Constitution Alteration (Tribunals) Canon 1998 Assenting Ordinance 2002.

2. Assent to Canon No 10, 1998

The Synod assents to Canon No 10, 1998 of the General Synod of the Anglican Church of Australia, the text of which is set out in Schedule 1.

3. Assent to Canon No 8, 2001

The Synod assents to Canon No 8, 2001 of the General Synod of the Anglican Church of Australia, the text of which is set out in Schedule 2.

4. Commencement

This Ordinance commences on the date that Canon No 10, 1998 and Canon No 8, 2001 of the General Synod of the Anglican Church of Australia would come into effect but for the commencement of this Ordinance.

Schedule 1

A Canon to amend the Constitution to clarify the jurisdiction of Diocesan Tribunals.

The General Synod prescribes as follows -

1. This Canon may be cited as the "Constitution Alteration (Tribunals) Canon 1998".
2. There shall be added as a new final sub-paragraph of section 54(2) of the Constitution the following:

"A diocesan tribunal shall also have and always be deemed to have had jurisdiction to hear charges in respect of a member of clergy if:

- (a) the act of the member of clergy which gave rise to the charge occurred in the diocese;
- (b) the member of clergy was licensed by the bishop of the diocese or was resident in the diocese within two years before the charge was laid; or
- (c) the member of clergy is in prison as a convicted person at the time the charge was laid, but within

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two years before such imprisonment was licensed by the bishop of the diocese or was ordinarily resident therein.”

3. Section 62 of the Constitution is renumbered 62(1) and the following new sub-sections are added:

“(2) In any proceeding before a tribunal, the tribunal shall admit as evidence that a person charged has been convicted of an offence, and proof of such conviction shall be evidence of the facts giving rise to such conviction. This provision shall not apply if such conviction has been quashed or set aside or in respect of which a pardon has been given.

“(3) In any proceedings before a tribunal, the transcript of any criminal proceedings in which the member of clergy the subject of a charge before the tribunal was a party shall be admitted as evidence in the same way as if the persons whose evidence appears in the transcript had given evidence in person before the tribunal. Provided that, the tribunal may exclude the whole or any part of such evidence should it consider that admission of the same would be likely to cause a serious injustice to the member of clergy charged.”

Schedule 2

A canon to amend the Constitution Alteration (Tribunals) Canon 1998.

The General Synod prescribes as follows:

Citation and Principal Canon

1. (1) This Canon may be cited as the “Constitution Alteration (Tribunals) Amendment Canon 2001”.
- (2) In this Canon, the Constitution Alteration (Tribunals) Canon is called “the Principal Canon”.

Additional jurisdiction of Tribunal

2. (1) In section 2 of the Principal Canon –
 - (a) for “as a new final sub-paragraph of section 54(2)” substitute “as new sub-sections (2A) and (2B) of section 54”;
 - (b) before “A diocesan tribunal” insert “(2A)”;
 - (c) for “to hear charges” substitute “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 twelve months or upwards”.

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(2) At the end of section 2 of the Principal Canon insert –

“(2B) Where a person has been found guilty of an offence by a diocesan tribunal in the exercise of its jurisdiction under sub-section (2A), the bishop of the diocese shall consult as to penalty with the bishop of the diocese by whom the person is licensed or in which the person resides at the time of the finding and no penalty may be imposed to which the latter bishop does not express concurrence.”

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

PG KELL
Chairman of Committees

We Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 22 October 2002.

CJ MORONEY
MA PAYNE
Secretaries of Synod

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
23/10/2002