

## **General Synod – Constitution (Appellate Tribunal) Amendment Canon 2017 Assenting Ordinance 2018**

### Explanatory Statement

#### **Purpose of the bill**

1. The purpose of the bill for the *General Synod – Constitution (Appellate Tribunal) Amendment Canon 2017 Assenting Ordinance 2018* (the Bill) is to amend the Constitution set out in the schedule to the *Anglican Church of Australia Constitution Act 1961*.
2. The amendment will allow General Synod to legislate in regards to part-heard matters. Members of the Appellate Tribunal whose office is to be vacated before the end of an appeal, question or matter can be allowed by legislation to continue to participate in and conclude a matter even if their office is vacated for all other purposes. It removes the power that members had to appoint replacements for members unable to sit and instead allows the appointment of reserve members of the Tribunal who can take the place of a member who is unable to sit.

#### **Recommendations**

3. That Synod receive this report.
4. That Synod pass the Bill as an ordinance of the Synod.

#### **Evidence Given**

5. The evidence for this Bill is set out in the explanatory memorandum that was provided to the General Synod. The Explanatory Memorandum is included as an Appendix to this report.
6. It is now considered undesirable that members of the tribunal themselves hold the power to replace other members unable to sit.
7. The Canon amends the Constitution and will not come into effect unless and until at least three-quarters of the diocesan synods, including all the metropolitan sees, have assented to the canon by ordinance and all such assents are in force at the same time.

For and on behalf of the Standing Committee

DANIEL GLYNN  
*Diocesan Secretary*

31 August 2018

## Appendix

### *Constitution (Appellate Tribunal) Amendment Canon 2017*

#### *Explanatory Memorandum*

#### *General Background*

1. This Bill complements the proposed changes to the Appellate Tribunal Canon in a cognate Bill.
2. It amends the Constitution to allow explicitly for General Synod to do by canon what it is proposed it do in that other canon; that is, it provides clear Constitutional authority for it to make the proposed canon.
3. In addition, the Constitution at present provides, "No Party to an appeal shall be a member of the tribunal for the purpose of the appeal and his place shall be filled for the purpose of the appeal by the other members co-opting a person qualified for the office." It is proposed to remove all the words after "purpose of the appeal", for two reasons: (1) the same subject matter will now be covered by the reserve list proposal, and (2) in any case it is now considered undesirable that the members of the tribunal should themselves select people to replace members unable to sit.
4. By s 67(1)(c) of the Constitution, this bill shall be a canon duly made if passed by a vote of a majority of the members of each house, but the canon does not come into effect unless and until at least three quarters of the diocesan synods of this Church, including all of the metropolitan sees, have assented to it by ordinance and all such assents be in force at the same time

#### *Notes on Clauses*

- Clause 1 Provides the title of the canon.
- Clause 2 Sets out the additional matters in respect of which the General Synod may legislate in relation to the Appellate Tribunal. These are:
- (a) members of the Appellate Tribunal completing part heard matters even once they have gone out of office;
  - (b) the appointment of reserves;
  - (c) reserves completing part heard matters even though they have ceased to be reserves.
- The amendment also makes it clear that members of the reserve list are not members of the tribunal for the purposes of the Constitution.
- Clause 3 Amends s 57(2) of the Constitution so that, while it will continue to be the case that a party to an appeal cannot remain as a member of the tribunal for the purpose of that appeal, there is no provision for the place of such a member to be filled by the other members of the tribunal co-opting someone.
- Clause 4 Repeals Canon 3 of 2010, which covered some of the same matters and which has not been adopted by all Metropolitan dioceses and therefore has not come into effect.