

# General Synod - Episcopal Standards (Child Protection) Canon 2017 Adopting Ordinance 2017

No 31, 2017

## Long Title

An Ordinance to adopt Canon No 5, 2017 of the General Synod of the Anglican Church of Australia.

The Synod of the Diocese of Sydney ordains as follows.

### 1. Name

This Ordinance is the *General Synod – Episcopal Standards (Child Protection) Canon 2017 Adopting Ordinance 2017*.

### 2. Adoption of Canon No 5, 2017

The Synod adopts Canon No 5, 2017 of the General Synod of the Anglican Church of Australia, the text of which is set out in the Schedule.

## Schedule

The General Synod prescribes as follows:

### Title

1 This Canon is the Episcopal Standards (Child Protection) Canon 2017.

### Definitions

2 (1) In this Canon, unless the context otherwise requires:

**assistant to the Primate** means any bishop assistant to the Primate in the Primate's capacity as Primate;

**Bishop** means a bishop who is or was a member of the House of Bishops or an assistant to the Primate;

**child** has the same meaning as in the National Register Canon 2007;

**child abuse** has the same meaning as in the National Register Canon 2007;

**complying ordinance** means an ordinance of a diocese relating to episcopal standards or professional standards in which examinable conduct or misconduct which may give rise to a question of fitness to be determined by the board constituted under that ordinance is defined as including examinable conduct as defined in this canon and which applies to a Bishop;

**examinable conduct** means:

(a) in relation to a Bishop who is a member of the House of Bishops or assistant to the Primate, any conduct or omission, other than exempt conduct, involving:

- (i) child abuse; or
- (ii) conduct that impedes or undermines a professional standards process; or
- (iii) the failure without reasonable excuse to perform a function under a professional standards process; or
- (iv) the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority;

wherever or whenever occurring, and the subject of information which, if established, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, but excludes any breach of faith, ritual or ceremonial;

(b) in relation to a Bishop who was a member of the House of Bishops or an assistant to the Primate, any conduct or omission involving:

- (i) child abuse; or
- (ii) conduct that impedes or undermines a professional standards process; or
- (iii) the failure without reasonable excuse to perform a function under a professional standards process; or

## General Synod - Episcopal Standards (Child Protection) Canon 2017 Adopting Ordinance 2017

- (iv) the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority;

occurring while a member of the House of Bishops or assistant to the Primate whether before or after the commencement of this canon, and the subject of information which, if established, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, but excludes any breach of faith, ritual or ceremonial;

**exempt conduct** means any conduct or omission which would be examinable conduct, had not the Bishop disclosed the material facts of such conduct to the ordaining bishop prior to the Bishop's ordination as a deacon;

**former Bishop** means a Bishop whose conduct falls within paragraph (b) of the definition of examinable conduct;

**professional standards process** means a process for determining the fitness for office of clergy or lay persons under any canon of the General Synod or diocesan ordinance or a process under Chapter IX of the Constitution, where the conduct that is the subject of the process relates to child abuse;

**relevant diocesan bishop** in relation to a former Bishop means the bishop of the diocese in which the former Bishop is licensed or resides.

- (2) Where there is examinable conduct in relation to a former Bishop, the examinable conduct extends to any other conduct or omission of the former Bishop that falls within subparagraphs (i) to (iv) of paragraph (b) of the definition of examinable conduct (other than exempt conduct), but occurring before or after any period in which the Bishop was a member of the House of Bishops or an assistant to the Primate, and is the subject of information that, if established, together with the relevant conduct or omission occurring while a member of the House of Bishops or assistant to the Primate, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders (but excluding any breach of faith, ritual or ceremonial).

### Application of specified provisions of the Episcopal Standards Canon 2007

- 3 (1) The following provisions of the Episcopal Standards Canon 2007 are incorporated in this canon as if they were set out in full in this Canon and were limited to examinable conduct as defined in this Canon:
  - (a) section 2 other than the definitions of "Bishop" and "examinable conduct"; and with the following amendments to the definition of "relevant Metropolitan":
    - (i) substitute for paragraph (b) "in relation to any other member of the House of Bishops or an assistant to the Primate, the Primate;"
    - (ii) insert paragraph (c) after paragraph (b):
      - "(c) in relation to a former Bishop:
        - (i) the Metropolitan of the Province in which the Bishop is licensed or resides; or
        - (ii) if the Bishop is licensed or resides in an extra-provincial diocese, the Primate."
  - (b) Parts 2 to 7 and 9 modified as follows:
    - (i) substitute "," for "." at the end of paragraph (k) of section 7 and insert after paragraph (k):
      - "(l) to have carriage under this Canon of the referral of a question to the Board from an equivalent body to the ESC under a complying ordinance."
    - (ii) delete paragraph (d) of section 16 and section 51(2);
    - (iii) insert after "section 16" in section 19(1) "or pursuant to a corresponding provision of a complying ordinance";
    - (iv) insert subsection (3) after subsection (2) of section 19:
      - "(3) Where there is a referral of a question to the Board from an equivalent body to the ESC under a complying ordinance, if the equivalent body would have, but for this Canon, referred at the same time other complaints against the Bishop to the board constituted under the complying ordinance in respect of conduct that does not fall within examinable conduct as defined in this Canon which might call into question the fitness of the Bishop to hold office or to remain

## General Synod - Episcopal Standards (Child Protection) Canon 2017 Adopting Ordinance 2017

in Holy Orders, the equivalent body may refer to the Board, and the Board may determine, the question arising from the conduct other than the examinable conduct in conjunction with the question arising from the examinable conduct.”

- (v) substitute “;” for “.” at the end of paragraph (k) of section 49 and insert after paragraph (k):
  - “(l) determine that the Bishop be prohibited, either temporarily or permanently, from functioning as a bishop or as a bishop and priest; or
  - (m) determine the Bishop be deposed from the exercise of Holy Orders.”
- (vi) delete “and” at the end of paragraph (d) of section 50 and insert after paragraph (d):
  - “(e) to the ESC;
  - (f) where appropriate, to any relevant complainant;
  - (g) in the case of a former Bishop, to the relevant diocesan bishop; and”
- (vii) insert section 50A after section 50:

“50A The relevant Metropolitan and, where applicable, the relevant diocesan bishop, is authorised and must give effect to the determination of the Board.”
- (c) Part 8 modified as follows:
  - (i) delete the definitions of “Review Tribunal”; “the appropriate state professional body” and “the relevant Chancellor” in section 52;
  - (ii) insert the following definition in section 52:

“**Review Board** means the Episcopal Standards Review Board constituted for the purposes of this Part.”
  - (iii) delete sections 53, 55, 63 and 66;
  - (iv) delete section 54 and substitute:

“54 A Bishop or the ESC, if aggrieved by a reviewable decision, may appeal by notice to the General Secretary.”
  - (v) insert a new section 55:

“55(1) The Review Board will be constituted from the members of the panel referred to in section 20 and the members of the panel to be convened for an appeal to the Review Board will be determined by whichever of the President or the Deputy President was not a member of the Board which made the determination that is the subject of the appeal, as soon as possible after the appeal is notified to the President or Deputy President.

(2) For the purpose of an appeal, the Review Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two from the episcopal members and two from the other members of the panel who were not members of the Board which made the determination that is the subject of the appeal.

(3) Subsections (3) to (5) of section 23, subsection (1) of section 24, sections 25 to 27, 29 and 31 to 33, subsections (2) and (3) of section 36, and sections 41(1), 42, 45 and 46 apply to an appeal to the Review Board, as if the reference to the Board is a reference to the Review Board.”
  - (vi) substitute “appeal” for “application to review” in sections 56 to 58 and 65 and for “review” in paragraph (b) of section 61 and in section 64;
  - (vii) substitute “notice of appeal” for “application” in paragraph (a) of section 58 and for “application for review” in section 61;
  - (viii) delete section 59 and substitute:

“59 If the Review Board on appeal confirms, varies or makes another determination in substitution for a reviewable decision, the

## General Synod - Episcopal Standards (Child Protection) Canon 2017 Adopting Ordinance 2017

Review Board must cause the details of the confirmed, varied or substituted determination to be forwarded to the General Secretary and the persons referred to in section 50 and the General Secretary shall cause relevant details to be forwarded for entry into the national register.”

- (ix) substitute “the Review Board” for “the Review Tribunal”, “a Review Tribunal”, or “the Tribunal” wherever occurring;
  - (x) delete the first sentence in section 61 and substitute:

“An appeal against the reviewable decision must be made within 28 days of a copy of the Board’s determination under section 50 being provided to the Bishop and the ESC.”
  - (xi) insert “General Secretary” for “Director” in paragraph (a) of section 61 and in section 62;
  - (xii) in section 65, insert “and making another determination in substitution for it” at the end of paragraph (a), omit paragraphs (c) and (d), and insert “or varying” after “confirming” in paragraph (e);
  - (xiii) delete section 67 and substitute:

“67 The appeal shall be by way of rehearing.”
- (2) The Episcopal Standards Board established by Part 6 of the Episcopal Standards Canon 2007 is the Episcopal Standards Board for the purpose of this Canon.

### Coming into force by adoption

- 4 The provisions of this Canon affect the order and good government of this Church within a diocese and do not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.

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

P COLGAN  
Deputy Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 10 October 2017.

R WICKS  
Secretary

I Assent to this Ordinance.

GN DAVIES  
Archbishop of Sydney  
19/10/2017