

## **General Synod – Long Service Leave Canon 2010 Assenting Ordinance 2010**

### **Explanatory Statement**

1. The purpose of the bill is to assent to the Long Service Leave Canon 2010 (the 2001 canon) and to make consequential amendments to the Long Service Leave Ordinance 1973. The 2010 canon will come into operation in this Diocese on 1 January after the synods of all dioceses which are participating dioceses under the existing Long Service Leave Canon 1995 (the 1995 canon) have assented to the canon by ordinance.

2. A previous form of the canon, the Long Service Leave Canon 2007, was considered by our Synod in 2009. However the Synod declined to assent to the previous form of the canon because of a concern that the provisions for winding-up the Long Service Leave Fund under the previous canon would enable funds which were contributed by participating dioceses and participating organisations to be transferred to entities without the consent of those participating dioceses or participating organisations. The 2010 canon includes new provisions for the winding-up of the Fund to address these concerns (clause 48 Schedule). The Standing Committee has therefore recommended to our diocesan representatives on the General Synod that they support the repeal of the previous canon and the passing of the 2010 canon.

3. The primary purpose of the 2010 canon is to provide for a change in entitlement for the amount of long service leave from 10 weeks for 10 years service to 13 weeks for 10 years service (clause 33 Schedule). This is to ensure a national approach which reduces potential exposure of a participating organisation to proceedings for breaches of the statutory regime.

4. The 2010 canon lowers the minimum entitlement to leave to 1 week without the need to make application to the Board (clause 35(2) Schedule).

5. The 2010 canon recognises part-time service (clause 40 Schedule). This is also reflected in an amended definition of "Service" to include part-time as well as full-time service.

6. The 2010 canon provides for the payment of pro-rata long service leave where a participant has not met the minimum qualifying period for the taking of leave due to death, resignation or retirement. In the Australian Capital Territory and New South Wales, employees who have not met the minimum qualifying period for the taking of leave, but who have served 5 years and whose employment ends by way of death or on account of termination (other than serious misconduct) are entitled to a pro-rata payment. The 1995 canon

requires 10 years service. Under the 2010 canon, a pro-rata payment is available after any length of service on death (clause 45 Schedule). A pro-rata payment is payable after 5 years upon qualifying service terminating for any other reason (clause 46 Schedule).

7. The 2010 canon allows certain types of amendments to be made to the provisions of the Schedule to the 2010 canon between meetings of the General Synod (section 7). Amendments to the Long Service Leave Canon 1995 can take up to 5 years as General Synod meets every 3 years and agreement of all 23 dioceses can take a further 2 years.

8. The canon makes a number of ancillary changes including the removal of provisions prohibiting membership of the board and corporation of persons who are aged over 72 years.

9. At the time this explanatory statement was prepared, the General Synod was due to consider the canon at its session in September 2010. The bill is therefore being promoted to our Synod by request of the Standing Committee in the expectation that the General Synod will pass the canon in materially the same form as it was promoted to the General Synod. The Standing Committee has agreed that any doubt about materiality will be resolved by the Chancellor.

**Recommendation**

10. The Standing Committee recommends that the Synod pass the bill as an ordinance.

For and on behalf of the Standing Committee.

ROBERT WICKS  
*Diocesan Secretary*

24 August 2010