

General Synod – National Register Canon 2007 Adopting Ordinance 2008

No 31, 2008

Long Title

An ordinance to adopt Canon No 15, 2007 of the General Synod of the Anglican Church of Australia and to regulate the extent of access to and disclosure of information in the register established under that Canon.

The Synod of the Diocese of Sydney Ordains as follows.

1. Name of Ordinance

This Ordinance is the General Synod – National Register Canon 2007 Adopting Ordinance 2008.

2. Interpretation

In this Ordinance –

“Access Protocol” means the protocol for access to and disclosure of information in the National Register made by the General Synod on 25 October 2007 under section 11 of the National Register Canon 2007.

“Archbishop” means the Archbishop of the Diocese or in his absence his Commissary or if the See is vacant the Administrator of the Diocese.

“Church authority” means the Archbishop or a person or body of the Diocese having authority to ordain, licence, elect, appoint, dismiss or suspend a member of the clergy or a lay person.

“Diocesan Representative” means the Archbishop or delegate or the Director of Professional Standards.

“Director of Professional Standards” means the person appointed for the time being under clause 101 of the Discipline Ordinance 2006.

“National Register” means the national register established under the National Register Canon 2007.

3. Extent of access to and disclosure of information to Church authorities

(1) For the purposes of part 3 of the Access Protocol, the Diocesan Representative –

(a) is authorised to have access to any information in the National Register relating to a member of the clergy or a lay person on the written request of a Church authority referred to in a cell in column 1 of Schedule 1, and

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(b) may disclose whether there is any such, and if so what, information to that Church authority in the circumstances referred to in the corresponding cell or cells in column 2 of Schedule 1.

(2) Except as provided under subclause (1), any procedures of a Church authority which require access to information in the National Register have no force or effect.

4. No access for election of persons by Church authorities

For the avoidance of doubt and for the purposes of paragraph 14 of the Access Protocol, the procedures of the Diocese do not require or otherwise authorise the Director of Professional Standards to access any information in the National Register where a Church authority holds an election for which members of the clergy or lay persons are candidates.

5. Adoption of Canon No 15, 2007

Canon No 15, 2007 of the General Synod of the Anglican Church of Australia, the text of which is set out in the Schedule 2, affects the order and good government of the Anglican Church of Australia in this Diocese and the Synod reserves the right to exclude the Canon. Notwithstanding this declaration, but subject to this declaration and reservation, the Canon is adopted.

6. Amendment of National Register (Access and Disclosure) Ordinance 2008

The National Register (Access and Disclosure) Ordinance 2008 is amended by deleting clauses 3, 4 and 6.

7. Commencement

This Ordinance commences on the last day of the 1st ordinary session of the 48th Synod or the date the Archbishop assents to the Ordinance, whichever is the later.

Schedule 1

Column 1	Column 2
Archbishop	Where the Archbishop proposes to ordain, or issue a licence to, or to appoint to a position within the Diocese, a member of the clergy or a lay person.

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	Where a member of the clergy or a lay person applies for ordination, or the issue of a licence, or appointment to a position within the Diocese by the Archbishop.
	Where the Archbishop invites a member of the clergy or a lay person to apply for ordination, or the issue of a licence, or appointment to a position within the Diocese and the member of clergy or lay person expresses interest in making an application.

Schedule 2

The General Synod prescribes as follows:

Short title

1. This Canon may be cited as the “National Register Canon 2007”.

Definitions

2. The dictionary in the Third Schedule defines particular words and expressions used in this Canon.

Object

3. The object of this Canon is to assist in providing for the physical, emotional and spiritual welfare and safety, and the protection from the risk of abuse, of all people having dealings with clergy and church workers by establishing a National Professional Standards Register to which authorised persons may have access and make disclosures of the Information therein.

Establishment of the National Register

4. There shall be a National Professional Standards Register of clergy and lay persons established and maintained in accordance with the provisions of this Canon.

Information about clergy

5. (1) The National Register shall be a register of all clergy –
 - (a) against whom a notifiable complaint has been made unless it is exhausted; or

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- (b) in respect of whom there has been a relinquishment of, or consent to deposition from, Holy Orders arising out of sexual misconduct or child abuse;
 - (c) in respect of whom there has been an adverse working with children check or an adverse criminal history check or an adverse *Safe Ministry Check*; or
 - (d) who have not been ordained as a priest or as a bishop, or issued with a licence or appointed by a Church authority, because of an adverse risk assessment.
- (2) The register of clergy shall contain the following matters –
- (a) Information relating to clergy; and
 - (b) in relation to each member of the clergy included in the register, a notation of the date on which the register was last altered.

Information about lay persons

6. (1) The National Register shall be a register of all lay persons –
- (a) against whom a notifiable complaint has been made unless it is exhausted; or
 - (b) in respect of whom there has been an adverse working with children check or an adverse criminal history check or an adverse *Safe Ministry Check*; or
 - (c) who have not been ordained as a deacon, or issued with a licence or appointed by a Church authority, because of an adverse risk assessment.
- (2) The register of lay persons shall contain the following matters –
- (a) Information relating to lay persons; and
 - (b) in relation to each lay person included in the register, a notation of the date on which the register was last altered.

Maintenance of the National Register

7. (1) Subject to this Canon, the National Register shall be maintained by the General Secretary in such form as the Standing Committee shall approve so as to ensure the security of the Information therein.
- (2) The General Secretary shall issue forms necessary for the operation of the National Register and publish these forms on the website of the General Synod.

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Provision of Information for inclusion in the National Register

8. A Director of Professional Standards shall notify the General Secretary of Historical Information and Current Information relating to any member of the clergy or lay person to which he or she has access in carrying out his or her responsibilities, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority –

- (a) as to Historical Information, by 1 March 2008 or such further time as the General Secretary allows; and
- (b) as to Current Information, as soon as practicable, and no later than one month, after he or she has access to the Information.

Notification of Information in the National Register

9. The General Secretary shall, as soon as practicable, and no later than one month, after the entry of Information in the National Register relating to a member of the clergy or a lay person (other than a changed entry relating to item 4 of each of the First and Second Schedules), notify the member of the clergy or lay person concerned of the entry of that Information by letter sent to his or her last known postal or electronic address.

Removal of Information in the National Register

10. (1) Where notification is received from the applicable Director of Professional Standards that a notifiable complaint against a member of the clergy or a lay person has been exhausted, the General Secretary shall, as soon as practicable and no later than one month after receipt of the notification, remove Information in the National Register relating to that notifiable complaint and notify –

- (a) the member of the clergy or lay person concerned of the removal of that Information by written notification sent to his or her last known postal or electronic address; and
- (b) each authorised person who has had access to that Information, other than the person or persons in subsections 11(d) and (e), of the removal of that Information, by written notification.

(2) Each authorised person referred to in subsection (1)(b), shall, as soon as practicable and no later than one month after the receipt of the notification referred to in that subsection, forward a copy of that notification to each Church authority to whom the authorised person has disclosed the Information.

(3) Where notification is received from the applicable Director of Professional Standards that a member of the clergy or a lay person relating to whom there is Information in the National Register

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has died, the General Secretary shall, as soon as practicable and no later than one month after receipt of the notification, remove Information in the National Register relating to that member of the clergy or lay person.

Register

11. Access to and disclosure of Information in the National Register shall, subject to sections 12 and 13, be limited to the following authorised persons –

- (a) a diocesan bishop or delegate;
- (b) the Bishop to the Defence Force or delegate;
- (c) a Director of Professional Standards;
- (d) the General Secretary;
- (e) any person within the General Synod Office whose duties include assisting the General Secretary in maintaining the National Register; and
- (f) such other persons as may be determined by the Standing Committee by a two-thirds majority;

who agree to abide by the protocols under this Canon approved by the General Synod, or the Standing Committee by a two-thirds majority.

Entitlement to ascertain the existence and obtain a copy of any Information in the National Register

12. The General Secretary, on application by a person to ascertain whether there is any Information, and if so to obtain a copy of the Information, in the National Register relating to that person, shall notify the person whether there is any such Information, and if so provide a copy of that Information to that person, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority.

Entitlement to ascertain details of access to Information in the National Register

13. The General Secretary, on application by a person to ascertain whether there has been access to any Information in the National Register relating to that person by an authorised person, shall notify the person whether there has been any such access, and if so provide details of that access to that person, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority.

Amendment of Information in the National Register

14. (1) The General Secretary, on application by a person to amend the Information in the National Register relating to that person, shall –

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- (a) amend the Information in the National Register relating to that person, or
- (b) include a statement of the person in the National Register,

subject to any limitation on the length of any amendment or statement determined by the Standing Committee, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority.

(2) The General Secretary shall, as soon as practicable and no later than one month after making the amendment or including the statement referred to in subsection (1), notify by written notification each authorised person who has had access to that Information, other than the person or persons in subsections 11(d) and (e), of the making of that amendment or the inclusion of that statement.

(3) Each authorised person referred to in subsection (2) shall, as soon as practicable and no later than one month after the receipt of the notification referred to in subsection (2), forward a copy of that notification to each Church authority to whom the authorised person has disclosed the Information.

Annual report and audit

15. (1) The General Secretary shall, as soon as practicable after the end of each calendar year, provide a report as to the operation of the National Register to the Standing Committee for that year containing such information as the Standing Committee may determine.

- (2) The Standing Committee shall –
 - (a) determine the scope of an audit of the operation of the National Register to verify compliance with this Canon and the protocols under this Canon; and
 - (b) appoint a person to undertake an audit of the operation of the National Register for each calendar year and provide a report to the Standing Committee as soon as practicable after the end of that year.

Protocols

16. The Standing Committee by a two-thirds majority may revise any protocol or make any additional protocol under this Canon where it is necessary or convenient to carry out or give effect to this Canon.

Report to the General Synod

17. The Standing Committee shall prepare a report on the operation of this Canon for each ordinary session of the General Synod which shall include –

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- (a) any protocol under this Canon which the Standing Committee has approved or revised, and
- (b) any other decision under this Canon which the Standing Committee has made,

since the last ordinary session of the General Synod.

Coming into force of particular provisions

18. (1) Paragraphs (a), (b), (c) and (f) of section 11 of this Canon shall not come into force until 1 March 2008.

(2) The provisions of this Canon relating to the Episcopal Standards Board shall not come into force in a diocese unless and until the diocese adopts the Episcopal Standards Canon 2007 by ordinance of the synod of the diocese.

Repeal of the National Register Canon 2004

19. The National Register Canon 2004 is hereby repealed.

The First Schedule - Information About Clergy

- 1 Full name.
- 2 Date of birth.
- 3 Gender.
- 4 Last known postal and electronic address, and telephone numbers.
- 5 Date of ordination as a deacon and name of the diocese in which ordained.
- 6 Date of ordination as a priest and name of the diocese in which ordained.
- 7 Date of consecration as a bishop and name of the diocese in which consecrated.
- 8 Particulars of any current licence, and any past licence if available, including the diocese for which the licence is or was held.
- 9 Particulars of any current appointment, and any past appointment if available, including the Church authority by which the appointment was made, and the diocese in which the appointment is or was held.
- 10 Date of a notifiable complaint, and date or period and category of the alleged sexual misconduct or child abuse.
- 11 Date and reason the Investigator refrained from investigating a notifiable complaint.

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- 12 Date of recommendation by the Investigator to the Church authority of a suspension from duties, office or an appointment by a Church body, or of a prohibition order, arising out of a notifiable complaint.
- 13 Date of reference of a notifiable complaint to a Determiner.
- 14 Date and particulars of a determination or recommendation of a Determiner relating to a notifiable complaint.
- 15 Date and particulars of any disciplinary action taken arising out of a notifiable complaint.
- 16 Date and particulars of any relinquishment of Holy Orders arising out of sexual misconduct or child abuse.
- 17 Date and particulars of any consent deposition from Holy Orders arising out of sexual misconduct or child abuse.
- 18 Date, applicable jurisdiction and particulars of any adverse working with children check.
- 19 Date, applicable jurisdiction and particulars of any adverse criminal history check.
- 20 Date, applicable diocese and particulars of any adverse *Safe Ministry Check*.
- 21 Name of the bishop or bishops and date of any decision by the bishop not to ordain the person as a priest or to issue a licence to the person or any refusal by the bishops to consecrate the person as a bishop because of an adverse risk assessment.
- 22 Name of the Church authority and date of any refusal by the Church authority to appoint the person because of an adverse risk assessment.

The Second Schedule - Information About Lay Persons

- 1 Full name.
- 2 Date of birth.
- 3 Gender.
- 4 Last known postal and electronic address, and telephone numbers.
- 5 Particulars of any current licence, and any past licence if available, including the diocese for which the licence is or was held.
- 6 Particulars of any current appointment, and any past appointment if available, including the Church authority by

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- which the appointment was made, and the diocese in which the appointment is or was held.
- 7 Date of a notifiable complaint, and date or period and category of the alleged sexual misconduct or child abuse.
 - 8 Date and reason the Investigator refrained from investigating a notifiable complaint.
 - 9 Date of recommendation by the Investigator to the Church authority of a suspension from duties, office or an appointment by a Church body, or of a prohibition order, arising out of a notifiable complaint.
 - 10 Date of reference of a notifiable complaint to a Determiner.
 - 11 Date and particulars of a determination or recommendation of a Determiner arising out of a notifiable complaint.
 - 12 Date and particulars of any disciplinary action taken arising out of a notifiable complaint.
 - 13 Date, applicable jurisdiction and details particulars of any adverse working with children check.
 - 14 Date, applicable jurisdiction and particulars of any adverse criminal history check.
 - 15 Date, applicable diocese and particulars of any adverse *Safe Ministry Check*.
 - 16 Name of the bishop and the date of any decision by the bishop not to ordain the person as a deacon or to issue a licence to the person because of an adverse risk assessment.
 - 17 Name of the Church authority and date of any refusal by the Church authority to appoint the person because of an adverse risk assessment.

The Third Schedule – Dictionary

In this Canon, and protocols approved under this Canon, unless the context otherwise requires –

“adverse criminal history check” means a criminal history check of a person provided under legislation of the Commonwealth, a State or Territory, or another country disclosing the commission of a criminal offence by that person which a Director of Professional Standards certifies arises out of sexual misconduct or child abuse by that person;

“adverse risk assessment” means an assessment that a person is unsuitable for ordination or the issue of a licence or an appointment –

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- (a) made by or on behalf of a Church authority on the grounds of; or
- (b) certified by a Director of Professional Standards to arise out of;

the risk of sexual misconduct or child abuse by that person;

“adverse Safe Ministry Check” means a *Safe Ministry Check* of a person disclosing sexual misconduct or child abuse or the risk of sexual misconduct or child abuse by that person;

“adverse working with children check” means a working with children check –

- (a) which prevents a person from applying for or engaging in specified paid or voluntary work involving children; or
- (b) which discloses adverse information relevant to the application of a person for specified paid or voluntary work involving children;

“Appellate Tribunal” means the Appellate Tribunal established in accordance with the provisions of Chapter IX of the Constitution;

“appointment” includes employment;

“authorised person” means a person referred to in section 11;

“child” means anyone under the age of 18;

“child abuse” means the following conduct in relation to a child –

- (a) emotional abuse; or
- (b) neglect; or
- (c) physical abuse; or
- (d) sexual abuse; or
- (e) spiritual abuse;

“Church authority” means a diocesan bishop or a person or body having authority to ordain, license, elect, appoint, dismiss or suspend a member of the clergy or a lay person;

“Church body” means –

- (a) a parish; or
- (b) any body corporate, organisation or association that exercises ministry within, or on behalf of, or in the name of, the Church formed by or by the authority of the synod of a diocese or the General Synod, unless the General Synod, or the Standing Committee by a two-thirds majority, excludes the body corporate, organisation or association from the operation of this Canon;

“church worker” means a lay person –

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- (a) who is or was licensed or authorised by the bishop of a diocese; or
- (b) who is or was employed by a Church body, unless the General Synod or the Standing Committee excludes the category of employees of which the lay person is a member from the operation of this Canon; or
- (c) who, for payment or not, holds or has held a position or performs a function with the actual or apparent authority of a Church authority or Church body, including an office, position or function –
 - (i) of leadership in a parish, diocese or General Synod body; and
 - (ii) as a member of the General Synod or a diocesan synod; and
 - (iii) as a member of a body incorporated by the General Synod, a diocese or a diocesan synod; and
 - (iv) as a churchwarden, member of any parish council or member of any committee constituted by or by the authority of the General Synod, a diocesan synod or a parish council;

unless the General Synod, or the Standing Committee by a two-thirds majority, excludes the office or position which the lay person holds or the function which the lay person performs from the operation of this Canon;

“**clergy**” means a person who is or has been a bishop, priest or deacon in this Church, but does not include a deceased person;

“**Current Information**” means Information, other than Exempt Information, which occurs after the commencement of this Canon;

“**Defence Force Representative**” means the Bishop to the Defence Force or delegate or the Director of Professional Standards of the Defence Force or their successors in office;

“**Determiner**” means –

- (a) the person or body in a diocese having power to make findings or recommendations relating to the conduct of clergy or church workers; or
- (b) the Special Tribunal; or
- (c) the Episcopal Standards Board; or
- (d) the Appellate Tribunal; or
- (e) any other person or body determining an appeal from a person or body having power to make findings or

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recommendations relating to the conduct of clergy or church workers;

“diocesan bishop” means the bishop of a diocese, or in the absence of the bishop the commissary appointed by the bishop, or in the time of a vacancy in the see the administrator of the diocese or their successors in office;

“Diocesan Representative” means the diocesan bishop or delegate or the Director of Professional Standards of the diocese;

“Director of the Episcopal Standards Commission” means –

(a) the Director of the Episcopal Standards Commission appointed under the Special Tribunal Canon 2007; or

(b) a person acting in that office;

“Director of Professional Standards” means –

(a) the Director of Professional Standards of a diocese or the Defence Force or his or her successor in office; or

(b) the person who carries out the functions of a Director of Professional Standards in a diocese or the Defence Force or his or her successor in office; or

(c) the person who works in conjunction with the Investigator; or

(d) the Director of the Episcopal Standards Commission or his or her successor in office; or

(e) a person acting in such an office;

“emotional abuse” means acts or omissions in relation to a child where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

“Episcopal Standards Board” means the Episcopal Standards Board constituted under the Episcopal Standards Canon 2007;

“Episcopal Standards Commission” means the Episcopal Standards Commission constituted under the Special Tribunal Canon 2007;

“Exempt Information” means Information relating to a notifiable complaint, where the notifiable complaint has been exhausted;

“exhausted” means a notifiable complaint which –

(a) has been withdrawn; or

(b) has been determined to be false, vexatious or misconceived; or

(c) is one where a Determiner finds that it is more likely than not that the subject matter of the complaint did not occur;

“General Secretary” means –

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- (a) the General Secretary of the General Synod or his or her successor in office; or
- (b) a person acting in that office;

“Historical Information” means Information, other than Exempt Information, which occurred prior to the commencement of this Canon;

“Information” means the matters, whether occurring before or after this Canon came into force –

- (a) relating to clergy specified in section 5(1) –
 - (i) which are referred to in the First Schedule; and
 - (ii) which, as to any additional matters, are determined by the Standing Committee; or
- (b) relating to lay persons specified in section 6(1) –
 - (i) which are referred to in the Second Schedule; and
 - (ii) which, as to any additional matters, are determined by the Standing Committee;

“Investigator” means the person or body in a diocese having power to investigate or cause to be investigated the conduct of clergy or lay persons or the Episcopal Standards Commission;

“lay person” means a person who has not been ordained, but does not include a deceased person;

“licence” includes an authority or permission to officiate;

“National Register” means the National Professional Standards Register referred to in section 4;

“neglect” means the neglect of a child where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

“notifiable complaint” means a complaint in accordance with the relevant canon, ordinance, rule or protocol received by a Director of Professional Standards of sexual misconduct or child abuse by a member of the clergy or a lay person, whenever and wherever occurring –

- (a) which has been communicated to the member of the clergy or lay person; or
- (b) which the Director of Professional Standards has certified has been sent to the last known postal or electronic address of the member of the clergy or lay person;

“physical abuse” means the physical assault of a child other than lawful discipline by a parent or guardian;

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“professional standards role” means a role undertaken as part of the professional standards policies and procedures and includes the role of a contact person, support person, Investigator and Determiner;

“prohibition order” means an order prohibiting a member of the clergy or a church worker from holding a specified position or office in or being appointed by a Church body or Church authority or from carrying out any specified functions in relation to any office or position in the diocese or in relation to any appointment by a Church body;

“Safe Ministry Check” means the questionnaire for the selection of ordination candidates, for the screening of clergy, and for the screening of church workers who have contact with children in his or her ministry, in use in a diocese or the Defence Force;

“sexual abuse” means sexual misconduct in relation to a child;

“sexual misconduct” means sexual assault, sexual harassment or sexually inappropriate behaviour in relation to an adult;

“Special Tribunal” means the Special Tribunal established in accordance with the provisions of Chapter IX of the Constitution;

“spiritual abuse” means the mistreatment of a child by actions or threats when justified by appeal to God, faith or religion where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

“Standing Committee” means the Standing Committee of General Synod;

“withdrawn” in relation to a notifiable complaint includes the circumstance in which a Director of Professional Standards certifies that the person making the complaint has failed without reasonable excuse to comply with the relevant canon, ordinance, rule or protocol under which the complaint has been made;

“working with children check” means checking or screening relating to the suitability of a person to apply for or engage in specified paid or voluntary work involving children under the legislation of a State or Territory.

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

R TONG
Chairman of Committees

**General Synod – National Register Canon 2007 Adopting
Ordinance 2008**

I Certify that this Ordinance was passed by the Synod of the Diocese
of Sydney 21 October 2008.

CJ MORONEY
R WICKS
Secretaries of Synod

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
22/10/2008