

# General Synod - Special Tribunal Procedure Canon 1992 Adopting Ordinance 1993

No 36, 1993

An Ordinance to adopt General Synod Canon No. 12, 1992.

Whereas -

A. The Special Tribunal Procedure Canon 1992 ("Canon") was made by the General Synod of the Anglican Church of Australia in 1992.

B. The text of the Canon is set out in the Schedule.

C. It is expedient that the Canon be adopted by the Synod of the Diocese.

Now the Synod of the Diocese of Sydney Ordains as follows -

## Citation

1. This ordinance may be cited as the "General Synod - Special Tribunal Procedure Canon 1992 Adopting Ordinance 1993".

## Adoption of the Canon

2. The Synod adopts the Canon.

## Schedule

A Special Tribunal Canon.

The General Synod prescribes as follows -

1. This canon may be cited as the "Special Tribunal Procedure Canon 1992".

2. In this canon, unless inconsistent with the context or contrary thereto -

"Assessors" means the board of assessors referred to in section 56(3) of the Constitution.

"Bishop" means a member of the House of Bishops.

"Member" means a person who is a member of this Church within the meaning of section 74(1) of the Constitution.

"Metropolitan" means, at any time, the most senior metropolitan of this Church at that time, seniority being determined by date of consecration, other than the Primate.

"Prescribed period", in relation to a charge made pursuant to this canon against a Bishop, means

(a) the period of 30 days next following the day on which the charge is delivered or served on the Bishop; but

(b) If the Primate or, where the Primate is the Bishop who is charged, the metropolitan allows a longer period (not exceeding 60 days) by written notice given to the Bishop and to the person or one of the persons making the charge, the period of 30 days referred to in paragraph (a) plus such longer period.

"President" means the person who is the president of the Tribunal by the operation of section 56(1) of the Constitution.

"Tribunal" means the special tribunal constituted by section 56 of the Constitution.

3. (1) A charge may be made against a Bishop by:

(a) 5 Members resident in the Diocese of the Bishop, or

(b) a Bishop.

(2) A charge against a Bishop must:

(a) be in writing;

(b) state the name and address of each person making the charge;

(c) state the breach of faith, ritual, ceremonial or discipline or the offence which the person or persons making the charge allege that the Bishop has committed;

(d) state or contain particulars of the events which constitute the breach or offence (which particulars must be verified by statutory declaration);

(e) where made other than by a Bishop, contain a certificate that each person making the charge is a member;

(f) be dated; and

(g) be signed by each person making the same.

(3) Three copies of a charge must be delivered to or served on the Primate or, if the Primate is the Bishop who is charged, on the Metropolitan.

4. (1) On receipt of a charge, the Primate or the Metropolitan must refer the charge to 3 persons each of whom is not a member of the Appellate Tribunal, the Tribunal or the Assessors, but who is:
  - (a) a member of the Standing Committee or of the Canon Law Commission or the chancellor of a metropolitan diocese, and
  - (b) a judge or is a barrister or solicitor of at least 10 years standing of a supreme court of a State or Territory.

(2) If a majority of the persons to whom the charge is referred under section 4(1) are of the opinion that if the allegations in the charge are correct the Bishop charged has prima facie committed a breach of faith, ritual, ceremonial or discipline or an offence, the Primate or metropolitan must deliver to or serve a copy of the charge on the Bishop charged but if a majority of those persons are not of that opinion, the Primate or the Metropolitan must notify the person or persons who made the charge of that fact and that no further proceedings will be taken in relation to the charge. Such opinion and notification do not preclude that person or those persons from making another charge.
5. (1) If the Bishop on whom a charge is delivered or served under section 4(2) does not notify the Primate or the Metropolitan who caused the charge to be delivered or served that he disputes all of the allegations in the charge within the prescribed period in relation to the charge, he is deemed to have admitted the truth of such of the allegations made as he has not disputed.

(2) A notification under section 5(1) must:
  - (a) be in writing,
  - (b) be signed by the Bishop concerned, and
  - (c) state the grounds on which the Bishop concerned disputes the allegations made.
6. On:
  - (a) the expiry of the prescribed period in relation to the charge, or
  - (b) receipt of a notification under section 5(1),the Primate or the Metropolitan who received the charge and any notification must:
  - (c) send a copy of the notification (if any) to the person or persons who laid the charge, and
  - (d) send a copy of the charge and the notification (if any) to the President.
7. (1) On receipt of a charge and any notification in relation thereto, the President must:
  - (a) convene a hearing by the Special Tribunal, and
  - (b) notify the person or persons who laid the charge and the Bishop concerned of the time, date and place of the hearing.

(2) At least 30 days notice of such meeting must be given.
8. Subject to the Constitution and to this canon, the Tribunal may conduct its proceedings as it considers appropriate.
9. At a hearing of the Tribunal, the person or persons who laid the charge and the Bishop charged are entitled to be present and represented by any person. No other person may be present except with the leave of the Tribunal.
10. The hearing shall be in camera provided however that the Tribunal may and on the application of the Bishop charged shall direct that the hearing be in public.
11. Section 2(2) of the Offences Canon 1962-1981 and sections 1 to 9 of the Tribunals Procedure Canon, 1962 are repealed.
12. Section 15 of the Tribunals Procedure Canon 1962 is deleted and the following section is inserted in lieu thereof:

“15. This canon may be cited as the Appellate Tribunal Procedure Canon 1962.”.

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

N.M. Cameron  
Chairman of Committees

We Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 11 October 1993.

W.G. Gotley  
C.J. Moroney  
Secretaries of Synod

I Assent to this Ordinance.

R.H. Goodhew  
Archbishop of Sydney  
12/10/1993