

# Ministry Standards and Safe Ministry Amendment Ordinance 2022

## Explanatory Report

### Purpose

1. The purpose of this report is to explain the effect of the bill for the Ministry Standards and Safe Ministry Amendment Ordinance 2022.

### Recommendations

2. Synod receive this report.
3. Synod pass the bill for the Ministry Standards and Safe Ministry Amendment Ordinance 2022.

### Explanation

4. The Ministry Standards and Safe Ministry Amendment Ordinance 2022 (**Bill**) accompanies this report.
5. The amendments made by the Bill are primarily consequential to the proposed reconstitution of the Safe Ministry Board under the Safe Ministry Board Ordinance 2001 Amendment Ordinance 2022 (**SMB Bill**). The explanatory report for the SMB Bill provides the policy rationale for these changes.
6. The Bill also amends the *Safe Ministry to Children Ordinance 2020* to clarify the obligations required under the Persons of Concern Policy.
7. The Bill also amends the *Accounts, Audits and Annual Reports Ordinance 1995* to insert a reporting requirement for 'Organisations' in relation to implementation and compliance with the Child Safe Standards under the *Children's Guardian Act 2019*. This amendment implements Royal Commission recommendation 16.35.

### Amendments to the *Ministry Standards Ordinance 2017*

#### *Changes to certain names, titles and functions (clauses 2(a), (c), (d) and (f) and (u))*

8. Clause 2(a) makes changes to certain names and titles in the *Ministry Standards Ordinance 2017 (MSO)* that are consequential to the SMB Bill. See paragraph 22 of the report for the SMB Bill.
9. Clause 2(c) amends the definition of "Safe Ministry Board" to update references to the ordinance constituting the Safe Ministry Board.
10. Clause 2(d) amends the definition of "Director" so that it refers to the new title and references the appointment to being under the *Safe Ministry Board Ordinance 2001* rather than Part 5A of the MSO.
11. Clause 2(u) provides for the Safe Ministry Board, rather than the Director, to report annually to the Standing Committee. This reflects the governance oversight that the Board will have over the Director as a result of the changes in the SMB Bill.

#### *Functions performed by the Registrar (clauses 2(b), (j), (k) and (n))*

12. The Registrar has provided informal management oversight of the Director and the Professional Standards Unit. Since this is no longer the case as a result of recent changes, there is no utility in the Registrar continuing to perform functions under the MSO.
13. Clause 2(b) deletes the definition of "Registrar" in the MSO.

14. Clauses 2(j) and (k) provide for the Chancellor to replace the Registrar in relation to the appointment of Adjudicators.
15. Clause 2(n) provides for the Director to exercise the functions presently undertaken by the Registrar in relation to applications for review of Professional Standards Board determinations. These functions involve receiving application from respondents and making notifications to and from the Chancellor. The Director's functions in Part 4C will be merely procedural.

*Adjudicators (clauses 2(e), (h) – (m), (o) and (q))*

16. Part 3H provides for complaints made against unpaid church workers to be considered by Adjudicators. To be an Adjudicator, a person must be an “experienced lawyer” – namely, a current or former judge or justice of an Australian, State or Territorial court or tribunal, or an Australian legal practitioner who has been admitted for not less than 10 years. Presently the Registrar can appoint any experienced lawyer as an Adjudicator for a complaint on request by the Director.
17. The following changes are proposed in relation to the appointment of Adjudicators –
  - (a) that appointments be made by the Chancellor, not the Registrar (clause 2(j) and (k)), and
  - (b) that appointments be made from a panel of experienced lawyers that has been compiled by the Director with the concurrence of the Chancellor (clauses 2(e), (i), (l), (m), (o) and (q)).
18. Clause 2(h) amends the definition of Adjudicator to take into account that it may include another Adjudicator who is appointed to replace the initial Adjudicator if that person has a conflict of interest.

*Appointment of the Director (clause 2(p))*

19. Clause 2(p) deletes clauses 82 and 82A which provide for the appointment of the Director and regulate conflicts of interest in relation to the performance of functions by the Director. These provisions will instead be inserted into the *Safe Ministry Board Ordinance 2001* by the SMB Bill.

*Information sharing (clauses 2(r), (s), (t), (v) and (w))*

20. Presently clause 84 requires the Director to inform the Archbishop of any allegations that a church worker has engaged in conduct that may be the subject of a complaint under the MSO and any response made by the church worker. The Director and the Archbishop are required to provide each other with such information as they may each reasonably require in such instance.
21. Clause 2(r) will change this from a requirement to a discretion. There may be circumstances where such information sharing is not appropriate, such as if there is a conflict of interest.
22. Clause 2(s) and (t) will clarify that information is ‘reasonably required’ if it is for the proper discharge of duties and responsibilities or as the person giving the information deems necessary for that purpose. Clause 2(w) provides the same clarification for reports by the Ministry Standards Committee (**MSC**) to the Archbishop under clause 107(3) of the MSO.
23. Clause 2(v) will insert a further exception to the duty of confidentiality applying to persons performing functions under the MSO. This will allow information to be divulged to the Safe Ministry Board (or any agent acting on its behalf) for the purpose of that Board fulfilling its functions.

*Delegation of functions by the Chancellor (clause 2(x))*

24. Clause 2(x) will insert a new clause 113 into the MSO to authorise the Chancellor to delegate any of his or her functions under the MSO to a Deputy Chancellor.

*Amendments to the Safe Ministry to Children Ordinance 2020*

25. Clause 3(a) makes changes to certain names and titles in the *Safe Ministry to Children Ordinance 2020* (**SMCO**) that are consequential to the SMB Bill. See paragraph 22 of the report for the SMB Bill.

26. Clause 3(b) clarifies that it is the Rector and Wardens who are responsible for complying with the Persons of Concern Policy in respect to the churches and congregations for which they hold office or exercise functions. The current clause 15 of the SMCO does not specify who is responsible for ensuring compliance with the Policy.
27. Clause 3(c) makes an editorial change to correct the capitalisation in the definition of 'Person of Concern Policy'.

#### Amendments to the *Accounts, Audits and Annual Reports Ordinance 1995*

28. Clause 14A will insert a new requirement into the *Accounts, Audits and Annual Reports Ordinance 1995 (AAARO)* to require any school or diocesan organisation subject to the AAARO that is required to report to a regulator concerning its implementation of or compliance with the Child Safe Standards, or which is the subject of such a report by a regulator, to promptly provide a copy of that report to the Safe Ministry Board.
29. This amendment will implement recommendation 16.35 of the Royal Commission into Institutional Responses to Child Sexual Abuse. This recommendation is that:

Religious institutions in highly regulated sectors, such as schools and out-of-home care service providers, should report their compliance with the Royal Commission's 10 Child Safe Standards, as monitored by the relevant sector regulator, to the religious organisation to which they are affiliated.
30. The 'relevant sector regulator' is the Office of the Children's Guardian (**OCG**). Under the *Children's Guardian Act 2019*, 'child safe organisations' including schools, out-of-home care providers and religious bodies (that provide services to children or in which adults have contact with children) are required to implement the Child Safe Standards, The OCG monitors implementation of the Standards and has the power to request information, conduct investigations and produce reports.

For and on behalf of the Standing Committee.

DANIEL GLYNN  
**Diocesan Secretary**

3 August 2022