

Oaths, Affirmations, Declarations and Assents Canon 1992

Introduction

1. The Oaths, Affirmations, Declaration and Assents Canon 1992 (the "1992 Canon") repeals the old canon law concerning oaths (found in Canon 36 of the Canons of 1603) and the Form of Declaration and Assent Canon 1973 (the "1973 Canon"). Copies of the 1992 Canon and the 1973 Canon are printed following this report. The text of Canon 36 of the Canons of 1603 is printed on pages 413 to 414 of *Acts, Ordinances & Regulations* (2002).
2. The 1973 Canon was adopted by the Synod of the Diocese of Sydney in 1973.
3. Under the 1961 Constitution, the 1992 Canon does not take effect in Sydney unless and until the Synod adopts it by ordinance.

Objects of the 1992 Canon

4. Principally, the 1992 Canon contains rules -
 - (a) for when an oath or affirmation of canonical obedience is to be taken and the form of the oath or affirmation, and
 - (b) for when a declaration and assent to the doctrine and formularies of the Church is to be taken and the form of the declaration and assent, and
 - (c) for when an assent to the constitutions and laws of the Church is required and the form of the assent.

Comment

5. The form of assent to the constitutions and laws of the Church (set out in section 7(1) of the 1992 Canon) requires that a member of the clergy or the laity declare his or her assent to be bound by the Constitution of the Anglican Church of Australia. This goes beyond the effect of the Constitution itself which binds a person only to the extent that it affects church trust property.

Recommendation

6. By reason of the matter referred to in 5., the Standing Committee recommends that the Synod not adopt the 1992 Canon.

For and on behalf of the Standing Committee

MARK PAYNE
Diocesan Secretary

13 August 2002



Oaths, Affirmations, Declarations and Assents Canon 1992

Canon No. 15, 1998

A canon concerning Oaths Affirmations Declarations and Assents

The General Synod prescribes as follows:

Short title

1. This canon may be cited as the "Oaths Affirmations Declarations and Assents Canon 1992".

Oath or Affirmation of Canonical Obedience

2. An oath or affirmation of canonical obedience shall be taken by a member of the clergy on
 - (a) ordination to the diaconate,
 - (b) ordination to the priesthood,
 - (c) first licensing of the member by the bishop of a diocese
 - (i) that member not having been ordained to the diaconate or priesthood in the diocese, or
 - (ii) following service by that member outside the diocese pursuant to the licence of another bishop, and

- (d) consecration as an assistant bishop

Form of Oath or Affirmation of Canonical Obedience

3. (1) Whenever an oath of canonical obedience is taken by a member of the clergy or laity the following form shall be used -

"I do swear that I will pay true and canonical obedience to [the bishop of the diocese or where applicable the bishop of the diocese sponsoring an ordination] and the successors of that bishop in all things lawful and honest. So help me God!".

(2) Whenever an affirmation of canonical obedience is taken by a member of the clergy or laity, the form in sub-section (1) shall be used but it shall be modified by -

- (a) substituting for "swear" the phrase "solemnly and sincerely affirm"; and
- (b) deleting the concluding sentence.

Declaration and Assent to Doctrine and Formularies

4. A declaration and assent to the doctrine and formularies of the Church shall be made by a member of the clergy on

- (a) ordination to the diaconate,
- (b) ordination to the priesthood,
- (c) first licensing of the member by the bishop of a diocese
 - (i) that member not having been ordained to the diaconate or priesthood in the diocese, or
 - (ii) following service by that member outside the diocese pursuant to the licence of another bishop,
- (d) consecration as an assistant bishop,
- (e) consecration or installation as the bishop of a diocese,

and by a member of the laity on

- (f) first licensing of that member by the bishop of a diocese.

Form of declaration and assent to doctrine and formularies

5. Whenever a declaration and assent to the doctrine and formularies of the Church is made by a member of the clergy the following form shall be used -

"I..... firmly and sincerely believe the Catholic Faith and I give my assent to the doctrine of The Anglican Church of Australia as expressed in the Book of Common Prayer and the Ordering of Bishops, Priests and Deacons and the Articles of Religion, as acknowledged in section 4 of the Constitution, and I believe that doctrine to be agreeable to the word of God.

I declare my assent to the Fundamental Declarations of The Anglican Church of Australia as set out in sections 1, 2 and 3 of the Constitution.

In public prayer and administration of the sacraments I will use the form prescribed in the Book of Common Prayer or a form authorised by lawful authority and none other."

Assent to Constitutions and Laws

6. An assent to the constitutions and laws of the Church shall be required of a member of the clergy on

- (a) ordination to the diaconate,
- (b) ordination to the priesthood,
- (c) first licensing of the member by the bishop of a diocese
 - (i) that member not having been ordained to the diaconate or priesthood in the diocese, or
 - (ii) following service by that member outside the diocese pursuant to the licence of another bishop,
- (d) consecration as an assistant bishop,
- (e) consecration or installation as the bishop of a diocese,

and by a member of the laity on

- (f) first licensing of that member by the bishop of the diocese.

Form of Assent to Constitutions and Laws

7. (1) Subject to sub-sections (2) and (3), whenever an assent to the constitutions and laws of the Church is made by a member of the clergy or the laity the following form shall be used -

"I do solemnly and sincerely declare my assent to be bound by the Constitution of the Anglican Church of Australia and the Constitution of the province of and of this diocese and by the canons, statutes, ordinances and rules, however described, from time to time of the synod of this diocese and of the General Synod and the provincial synod (or council) which have force in this diocese."

(2) The form prescribed in sub-section (1) may be varied by deleting provincial references in a diocese which is not within a province.

(3) In a diocese in which a provision of the constitution of the diocese which is in force and which was in force on 1 January 1998 prescribes a different form of assent the diocesan form may be used instead of the form in sub-section (1).

Diocesan Provision

8. (1) Nothing in this canon prevents the bishop or synod of a diocese requiring or providing for the use of any of the oaths, affirmations, declarations and assents referred to in this canon on occasions additional to those provided in this canon.

(2) Unless the bishop or synod of a diocese otherwise requires or provides, a person to be consecrated, ordained, instituted or licensed in this Church within the diocese is not required to take, make or subscribe to an oath, affirmation, declaration, assent or subscription not provided for or referred to in this canon.

Substantial Compliance

9. A deviation from the form of an oath, affirmation, declaration or assent prescribed in this canon which does not materially affect the substance shall be sufficient compliance with the requirements of this Canon.

Canon 36 of 1603 Repealed

10. Except to the extent that it requires a person to be licensed by the bishop of the diocese, the Canon numbered 36 of the Canons of 1603, insofar as it may have had any force either in its original form or as amended, shall have no operation or effect in a diocese which adopts this Canon.

Canon 7, 1973 Repealed

11. The Form of Declaration and Assent Canon 1973 is repealed.

Canon Affects Dioceses

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



Form of Declaration and Assent Canon 1973

Canon No. 7, 1973

A canon to prescribe the form of the declaration to be made by clergymen, 1973

Whereas the Commission on Doctrine at the request of General Synod has considered the form of declaration and assent to the doctrine and formularies of the Church of England in Australia to be made by clergymen,

And whereas the Commission has recommended the form of declaration and assent specified in the Schedule hereto as suitable for use in the Church of England in Australia,

Now therefore the General Synod prescribes as follows:

1. When a clergyman is required to make a declaration and assent to the doctrine and formularies of the Church of England in Australia, the form of the declaration and assent shall be that contained in the Schedule hereto.

4 Oaths, Affirmations, Declarations and Assents Canon 1992 (2002)

2. This canon affects the order and good government of the Church within a diocese and shall not come into force in any diocese unless and until the diocese by ordinance adopts it.
3. This canon may be cited as "Form of Declaration and Assent Canon, 1973".

Schedule

The Church of England in Australia, being an Apostolic Church, receives and retains the Catholic Faith, which is grounded in Holy Scripture and expressed in the Creeds, and within its own history, in the Thirty-nine Articles, in the Book of Common Prayer and in the Ordering of Bishops, Priests and Deacons. Accordingly, I A.B., do solemnly make the following declaration:-

I firmly and sincerely believe the Catholic Faith and I give my assent to the doctrine of the Church of England in Australia as expressed in the Thirty-nine Articles of Religion, the Book of Common Prayer and the Ordering of Bishops, Priests and Deacons; I believe that doctrine to be agreeable to the Word of God: and in public prayer and administration of the sacraments I will use the form in the said book prescribed, and none other, except as far as shall be ordered by lawful authority.