

THE CLERGY DISCIPLINE ORDINANCE 2019

A BILL FOR A CLERGY DISCIPLINE ORDINANCE 2019

EXPLANATORY MEMORANDUM

This Bill proposes the replacement of the Clergy Discipline Ordinance 1966, which has been amended many times, with a new Ordinance. The new Ordinance creates provisions to reflect amendments to the Constitution of the Anglican Church of Australia and provides for practical improvements to operational provisions derived from recent experiences in the prosecution of clergy disciplinary matters.

Of particular note is the creation of a Clergy Discipline Panel appointed by Synod from which members are appointed to the Board of Enquiry that will consider whether charges against clergy may be referred to the Diocesan Tribunal. The new ordinance updates procedures for the conduct of Diocesan Tribunal hearings and for the Bishop's consideration of any recommendation arising from any decision of the Diocesan Tribunal. Under the new ordinance, the Bishop is not obligated to adopt any recommendation of the Diocesan Tribunal and, whilst there is a right of appeal from any decision of the Diocesan Tribunal, there is no right of appeal from any decision of the Bishop.

THE BILL

AN ORDINANCE providing for the Trial of Members of the Clergy for Ecclesiastical and Other Offences.

BACKGROUND

WHEREAS it is expedient to provide for the trial for ecclesiastical or other offences of persons in holy orders licensed by the Bishop of Newcastle and of other persons in holy orders resident in the Diocese of Newcastle.

BE IT THEREFORE ORDAINED by the Synod of the Diocese of Newcastle of the Anglican Church of as follows:-

PART 1 - PRELIMINARY

1.
 - (1) This Ordinance may be cited as the "***Clergy Discipline Ordinance 2019***".
 - (2) The Clergy Discipline Ordinance 1966 is in this clause referred to as the former Ordinance.
 - (3) The former Ordinance is hereby repealed.
 - (4) The repeal effected by sub-clause (3) of this clause shall not affect any investigation, trial, proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture, sentence or punishment and any such investigation, trial, proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture, sentence or punishment may be imposed as if this Ordinance had not been made.
2. The Offences Canon of General Synod as approved by the General Synod in the period 1966 – 2017 is adopted as the Offences Canon for the Diocese of Newcastle together with such other amendments to that Canon as are adopted by Ordinance.
3. This Ordinance is divided into Parts as follows:-
 - Part I - Preliminary (Clauses 1-4)
 - Part II - Charges (Clauses 5-9)
 - Part III – The Clergy Discipline Panel (Clauses 10-14)
 - Part IV - The Board of Enquiry (Clause 15)
 - Part V - Procedure as to Charges (Clauses 16-24)
 - Part VI – Procedure for Suspension by the Bishop (Clauses 25-27)
 - Part VII - Diocesan Tribunals (Clauses 28-29)

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Part VIII – Conduct of Hearings of Diocesan Tribunal (Clauses 30-37)

Part IX - Decisions, Recommendations and Sentence (Clauses 38-47)

Part X - Costs (Clause 48)

Part XI - Appeal (Clause 49- 50)

Part XII – Records (Clauses 51-53)

Part XIII - Miscellaneous (Clauses 54-57)

4. ⁽³⁾ (1) In this Ordinance (including this clause of this Ordinance) unless the context or subject matter otherwise requires or indicates:

"*accused*" means a member of the clergy to whom this Ordinance applies against whom a charge is made.

"*the Advocate*" means the Advocate of the Diocese appointed pursuant to this Ordinance.

"*the appellate tribunal*" means the appellate tribunal constituted by and under the Constitution of the Anglican Church of Australia.

"*the Bishop*" means the Bishop of Newcastle or the Commissary of the Bishop of Newcastle during the absence of the Bishop from the Diocese or the Administrator of the Diocese during a vacancy in the See.

"*the Board*" means the Board of Enquiry constituted as provided by this Ordinance.

"*the Chancellor*" means the Chancellor of the Diocese.

"*ceremonial*" includes ceremonial according to the use of the Church and also the obligation to abide by such use.

"*Constitution*" means the Constitution of the Anglican Church of Australia

"*charge*" means a charge made pursuant to this Ordinance.

"*the Church*" means the Anglican Church of Australia.

"*diocesan tribunal*" or "*tribunal*" means a diocesan tribunal constituted as provided by this Ordinance.

"*the Diocese*" means the Diocese of Newcastle.

"*the Director of Professional Standards*" means the Director of Professional Standards appointed in accordance with the Professional Standards Ordinance 2012.

"*discipline*" includes the rules of the Church and the rules of good conduct.

"*doctrine*" means the teaching of the Church on any question of faith.

"*faith*" includes the obligation to hold the faith.

"*informant*" means a person who makes a charge as referred to in clause 6(2) and where a charge is made by more than one person "the informant" means "each of the informants".

"*licence*" means a licence under seal of the bishop or the seal of the Diocese and "licensed" has a meaning corresponding with that of licence.

"*member of the Church*" means a baptised person who attends the public worship of the Church and who declares that he or she is a member of the Church and not a member of any other church.

"*member of the clergy to whom this Ordinance applies*" means a person licensed by the Bishop or any other person in holy orders resident in the diocese

"*offence*" means any of the following:

- (a) breach of faith ritual ceremonial or discipline;
- (b) an offence specified in the *Offences Canon 1962*; or
- (c) conviction of any offence punishable by imprisonment of 12 months or more if the offence was committed in New South Wales or if the offence was committed outside New South Wales, such offence would be so punishable had it been committed within New South Wales.

"*Offences Canon*" means the Offences Canon 1962 of the General Synod as amended by the General Synod where such amendments are in force in the Diocese of Newcastle

"*panel*" mean the Clergy Discipline Panel constituted as provided by this Ordinance

"*parish*" means a parish as defined by the Administration of Parishes Ordinance 2010.

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"*parishioner*" means a member of the Church who is an elector of a parish.

"*permission to officiate*" means a document issued under the seal of the Bishop or the seal of the Diocese which permits a member of the clergy to exercise ministry.

"*Tribunal Secretary*" means the person appointed by the Diocesan Council to the Secretary of the Diocesan Tribunal.

"*ritual*" includes rites according to the use of the Church and also the obligation to abide by such use.

"*the Synod*" means the Synod of the Diocese.

- (2) In this Ordinance a reference to faith includes a reference to doctrine.
- (3) In this Ordinance a reference to a Schedule is a reference to a Schedule to this Ordinance and a reference to a clause is a reference to a clause of this Ordinance.

PART II - CHARGES

5.
 - (1) A charge as to the commission of an offence may be made under this ordinance against any member of the clergy to whom this Ordinance applies.
 - (2) Every such charge shall be dealt with as provided by this Ordinance.
6. For the purposes of this Part the presenting of a charge to the Tribunal Secretary which complies with the requirements of this Ordinance as to the making of charges shall constitute the making of that charge.
7.
 - (1) A charge of breach of faith ritual or ceremonial may be made:
 - (a) against an incumbent of a parish with reference to an offence alleged to have been committed within that parish only by:
 - (i) a person appointed by the Bishop; or
 - (ii) any five adult communicant members of the Church who are both resident within the diocese and also bona fide parishioners of that parish; and.
 - (b) in any other case - only by:
 - (i) a person appointed by the Bishop; or
 - (ii) any five adult communicant members of the Church who are resident within the diocese.
 - (2) A charge of an offence other than breach of faith, ritual or ceremonial may be made by:
 - (a) a person appointed by the Bishop; or
 - (b) any other adult member of the church resident within the diocese; or
 - (c) the Director of Professional Standards
8.
 - (1) A charge of breach of faith ritual or ceremonial may only be made within one year after the alleged commission of the alleged breach.
 - (2) There shall be no time limit for the making of any charge other than for breach of faith, ritual or ceremonial.

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9. (1) Every charge shall be made by written instrument in or to the effect of the form set out in Schedule A signed by the informant. The informant may sign separate instruments and the separate instruments shall be read together.
- (2) Every charge shall be accompanied by any supporting documents that shall be attached.
- (3) Every charge shall be presented by the informant to the Tribunal Secretary who shall then refer each charge to the Bishop who shall then deal with each charge in accordance with clause 16 or 17 (as applicable).

PART III – THE CLERGY DISCIPLINE PANEL

10. At the first session of every Synod, the Synod shall elect from the members of the Synod:
 - (a) four female members of the clergy;
 - (b) four male members of the clergy;
 - (c) four female members of the laity; and
 - (d) four male members of the laityto the Clergy Discipline Panel.
11. A member of the Panel shall hold office until the conclusion of the first session of that Synod which next follows his or her election or appointment as a member of the Panel.
12. The office of a member of the Panel shall be vacated if he or she:
 - (a) ceases to be a member of Synod; or
 - (b) resigns his or her office; or
 - (c) refuses or neglects to act in his or her office; or
 - (d) becomes in the opinion of the Bishop incapable of acting in his or her office and is given notice accordingly in writing by the Bishop; or
 - (e) is charged under this Ordinance with an offence; or
 - (f) is removed from office in accordance with any Ordinance of the Synod
13. If a member of the Panel dies or the office of a member of the Panel is vacated, the Diocesan Council may appoint a member of the Synod to be a member of the Panel in his or her place.
14. The Diocesan Council may appoint a member of the Synod to fill any vacancy in the membership of the Panel but may appoint only a member of the clergy in place of a member of the clergy and only a lay person in place of a lay person.

PART IV - THE BOARD OF ENQUIRY

15. (1) There shall be a Board of Enquiry constituted as provided for in this Part.
- (2) The Board shall consist of three members: a Board Chair, a member of the clergy appointed by the Tribunal Secretary from the Panel and a lay member appointed by the Tribunal Secretary from the Clergy Disciplinary Panel. At least one member of every Board shall be female and at least one member of every Board shall be male.
- (3) The Bishop shall appoint a lawyer who has held judicial office or who is or has been eligible for appointment to judicial office in NSW person to be the Board Chair.

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PART V - PROCEDURE AS TO CHARGES

16.
 - (1) This clause shall apply only where the charge is a charge of breach of faith, ritual or ceremonial and is not made by a person appointed by the Bishop.
 - (2) When the charge is presented to the Bishop, the Bishop shall determine in his or her absolute discretion whether the requirements of clause 7(1) and 8(1) have been satisfied.
 - (3) If the Bishop determines that the charge does not satisfy the requirements of clauses 7(1) and/or 8(1), the informant shall be notified of the Bishop's determination by the Tribunal Secretary and the reasons for that determination. Thereafter, no further action shall be taken under this Ordinance with respect to that charge unless and until the requirements of clauses 7(1) and or 8(1) are satisfied.
 - (4) If the Bishop determines that charge satisfies the requirements of clauses 7(1) and/or 8(1) the Bishop shall refer the charge to the Board with all attached documents.
17. For any charge of breach of faith ritual or ceremonial to which clause 16 does not apply, the Bishop shall refer the charge to the Board with all attached documents.
18. Following the referral pursuant to clause 16 or 17, the Board shall, without the necessity of hearing from any person, decide whether the charge is appropriate to be heard by a diocesan tribunal and shall inform the Bishop and the Tribunal Secretary of its decision.
19. If the Board decides, pursuant to clause 18 not to allow a charge to be heard by the diocesan tribunal, the Tribunal Secretary shall notify the informant accordingly and no further action shall be taken under this Ordinance with respect to that charge.
20. Where the Board determines that a charge is to be heard, the Tribunal Secretary shall cause to be served on the accused within one month of the determination:
 - (a) a notice setting out the charge and of each attached document; and
 - (b) a notice in writing requiring the accused to reply in writing to the charge within twenty-one days from the date of the notice.
21.
 - (1) The accused may in his or her reply to the notice received under clause 20(b):
 - (Case A): Where one offence only is charged - admit the commission of that offence and submit as prescribed.
 - (Case B): Where two or more offences are charged - admit the commission of each of those offences and submit as prescribed.
 - (2) In sub-clause (1) of this clause "submit as prescribed" means "submit himself or herself without further proceedings to such judgement and sentence that the Bishop shall think fit to pronounce".
22.
 - (1) This clause shall apply to any offence to which the accused admits to the commission of the offence under either Case A or Case B of clause 21.
 - (2) Upon receipt of an admission by the accused to the commission of the offence (or as the case may be of each of the offences) charged and having submitted as provided by clause 21:

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- (a) the accused shall be provided twenty eight (28) days from the date of the notice to provide any evidence or submissions of excuse or mitigation to the Bishop; and
 - (b) the informant shall be notified of the admission.
 - (3) At the conclusion of the period set out in clause 22(2)(a), the Bishop shall consider any such evidence or submissions provided by the accused in response to the request under clause 21(2)(a) in his or her deliberations and shall then, by further notice, advise the accused and the informant of a time and place for the pronouncement of judgment and sentence in relation to the offence.
 - (4) In providing notice under clause 22(3), the Bishop may also advise any other person of the intention to pronounce judgment and sentence.
 - (5) The Bishop may suspend the operation of a sentence in accordance with the terms set out in clauses 45 and 46.
23. (1) In every matter where the accused has not admitted the offence under clause 21 or the Tribunal Secretary has not received a response to the notice issued under clause 20(b):
- (a) the offence shall be considered, heard and determined by a diocesan tribunal; and
 - (b) the Bishop shall appoint an Advocate of the Diocese to prepare a document formally particularising the charge or charges, to be known as the Formal Notice of Charge, which shall be sent to the Tribunal Secretary.
- (2) If there is more than one charge, the Advocate may, at his or her discretion, issue more than one Formal Notice of Charge.
24. On receiving the Formal Notice of Charge, the Tribunal Secretary shall cause to be served:
- (a) upon the accused and the informant – the Formal Notice of Charge;
 - (b) upon the accused - a direction to appear (at such time not less than fourteen nor more than forty days from the date of the citation and at such place as shall be specified in the direction) before a diocesan tribunal to answer the Formal Notice of Charge; and
 - (b) upon the informant - a copy of the direction to appear.

PART VI – PROCEDURE FOR SUSPENSION BY THE BISHOP

25. The Bishop may suspend a person from the duties of office prior to a charge being made for a period of up to twenty eight days where:
- (a) a charge against the person is proposed under this Ordinance; and
 - (b) the charge will not allege a breach of faith, ritual or ceremonial; and
 - (c) the charge relates to an offence that is punishable by imprisonment of 12 months or more if the offence was committed in New South Wales or if the offence was committed outside New South Wales, the offence would be so punishable had it been committed within New South Wales, and the Bishop has received advice from an experience legal practitioner that there is a prima facie case that the person committed the offence.

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26. During any suspension effected under section 25 above:
- (a) if a charge is formally made under clause 7, the Bishop may extend the period of suspension until the next meeting of the Diocesan Council; and
 - (b) the Bishop may revoke such suspension prior to its expiry.
27. Where a charge has been made, the Bishop may, with the concurrence of the Diocesan Council, suspend a person from the duties of their office until the determination of the charge or such lesser time as may be advised.

PART VII - DIOCESAN TRIBUNAL

28. The Diocesan Council shall appoint lawyers who have held any judicial office or who are or have been eligible for appointment to any judicial office in NSW person to be the President and the Deputy President of the diocesan tribunal for a term not exceeding six years.
29. (1) A diocesan tribunal shall be duly constituted for the trial of an accused in the following manner:
- (a) the Presiding Member who shall be the President or, if the President is unable to preside, the Deputy President;
 - (b) two clergy members of the Panel appointed by the Tribunal Secretary provided that no member of the Panel can serve on the Board and on the Tribunal in relation to the same charges;
 - (c) two lay members of the Panel appointed by the Tribunal Secretary provided that no member of the Panel can serve on the Board and on the Tribunal in relation to the same charges;
- (2) In summoning members of the Panel to form a diocesan tribunal to preside at the trial of an accused, the Tribunal Secretary shall, so far as is practicable, endeavour to ensure that there is a balance of gender among the male and female members of the Tribunal;
- (3) No proceeding or purported proceeding of a diocesan tribunal shall be called into question by reason of any alleged non-compliance with clause 25(2).
- (4) If, after the commencement of a proceeding of a diocesan tribunal, a member of the tribunal ceases to hold office as a member of the Panel, he or she shall also cease to be a member of the tribunal and the Presiding Member shall determine whether the proceeding shall continue to complete the determination and recommendation.

PART VIII – CONDUCT OF HEARINGS OF DIOCESAN TRIBUNAL

30. (1) A diocesan tribunal shall assemble at the time and place appointed in the direction to appear. Each member of a diocesan tribunal shall make the declaration set forth in Schedule B. The trial shall then be commenced by the Presiding Member causing the accused to be summoned to appear before the tribunal.
- (2) The accused may appear in person or represented by a legal practitioner or (if charged with breach of faith ritual or ceremonial) by a person in holy orders.

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- (3) If the accused does not appear at the diocesan tribunal hearing, the Presiding Member shall determine whether the notice to appear has been duly served upon the accused and, if so satisfied, the diocesan tribunal proceeding shall continue in the absence of the accused.
 - (4) If the accused appears or if the trial proceeds in his or her absence, the Presiding Member shall then read or cause to be read the Formal Notice of Charge.
 - (5) If the accused appears, he or she shall then be called upon to plead to each charge and his or her plea or pleas shall be recorded. If he or she neglects or refuses to plead to any charge, a plea of not guilty to that charge shall be entered on his or her behalf.
 - (6) If the accused does not appear and the trial proceeds in his or her absence, a plea of not guilty to each offence shall be entered on his or her behalf and the trial shall proceed as far as possible in the same manner as if the accused had appeared and had so pleaded.
31. The tribunal may during the hearing permit amendment of the Formal Notice of Charge upon such terms (if any) as it thinks fit.
32.
 - (1) Any diocesan tribunal proceeding shall be conducted with fairness, equity and good conscience without regard to technicalities and is not bound by the rules of evidence but may inform itself of any matter in such manner as it deems fit.
 - (2) The evidence of witnesses shall be examined on oath or affirmation and before giving evidence, witnesses shall make the declaration oath or affirmation set forth in Schedule C.
 - (3) The diocesan tribunal may inform itself from the record of any court or tribunal, may adopt any finding from any court or tribunal, and may accept any record of any such court or tribunal as it sees fit.
33. The President may from time to time in writing make and alter rules for the conduct of hearings before diocesan tribunals.
34. The case against the accused shall be conducted before the tribunal by the Advocate.
35. The Presiding Member shall determine all questions arising during a hearing which are questions of law or questions of the admissibility of evidence.
36. In any hearing where an issue is whether there has been a breach of doctrine:
 - (a) the President or Deputy President may at any time request the Bishop to determine the scope of the doctrine that may be considered having due regard to the subject matter which is the basis of the charge. The determination of the Bishop is final;
 - (b) the opinion of experts shall be admissible as to:
 - (i) the doctrine;
 - (ii) whether on the facts there has been a breach of the doctrine; and
 - (c) the tribunal shall determine whether on the facts there has been a breach of the principles of doctrine so determined by the Bishop.
37. The proceedings of a tribunal shall be attended by the Tribunal Secretary as an officer of the tribunal and shall be open to the public provided that the Presiding Member at any stage of the

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proceedings may order they shall be held in private by reason of their subject matter or the misconduct of the audience or for any other reason he or she may in his or her absolute discretion think fit.

PART IX - DECISIONS, RECOMMENDATIONS AND SENTENCES

38. A charge is required to be proved on the balance of probabilities.
39. After due examination of the evidence and matters put before it, the diocesan tribunal shall make a decision and, if required, a recommendation as to each offence alleged in the Formal Notice of Charge. If the diocesan tribunal decides that the accused is guilty of any offence, it shall make such recommendations as it thinks just in the circumstances but shall not recommend any sentence other than a sentence provided by the Constitution.
40. Any decision or recommendation made by the tribunal shall be determined from the votes of the individual members of the diocesan tribunal. Each member of the tribunal shall have one vote and the Presiding Member shall, in the event of a deadlock, have a casting vote.
41. Once the decisions and recommendations of the tribunal are determined, the Presiding Member shall give the Bishop notice in writing of such matters.
42. Upon the decision and the recommendation (if any) of the tribunal becoming known to the Bishop he or she shall:
- (a) if every issue has been decided in favour of the accused - provide the accused and the informant written notice of the decisions and, if requested, issue a certificate in an appropriate form under his or her hand and seal;
 - (b) in every other case – provide the accused written notice of the decision and recommendation (if any) of the tribunal and then provide 28 days from the date of the notice for the accused to provide any evidence or submissions of excuse or mitigation for consideration by the Bishop.
43. (1) This clause applies where notice is given in accordance with clause 42(b).
- (2) At the conclusion of the period set out in clause 42(b), the Bishop shall consider any such evidence or submissions provided by the accused in response to the request in his or her deliberations and shall then, by further notice, advise the accused and the informant of a time and place for the pronouncement of judgment and sentence in relation to the offence.
- (3) In providing notice under clause 43(2), the Bishop may also advise any other person of the intention to pronounce judgment and sentence.
44. If the tribunal makes no recommendation as to sentence, the Bishop shall pronounce such sentence as he or she thinks fit.
45. (1) The Bishop shall consider any recommendation made by the tribunal and any evidence or submissions provided by the accused, and may in the exercise of his or her prerogative of mercy:
- (a) mitigate the sentence; or
 - (b) suspend its operation; or
 - (c) mitigate the sentence and suspend its operation for a period of up to two (2) years.

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- (2) The Bishop is under no obligation to adopt any recommendation of the diocesan tribunal.
46. (1) If the Bishop suspends the operation of a sentence under clause 45(1)(c), such suspension shall be on terms and conditions the Bishop shall deem fit. At the conclusion of the term of suspension, if the accused has satisfied any terms or conditions of the suspension, the Bishop may then determine, at his or her sole discretion, whether the sentence shall cease to have effect.
- (2) Every sentence or mitigated sentence shall, if its operation is not suspended, commence to operate immediately it is pronounced.
47. (1) In pronouncing any sentence for which a notice has been provided under either clause 22(3) or 43(2), the Bishop shall:
- (a) deliver the pronouncement of sentence (and any mitigation or suspension) verbally to all persons assembled;
 - (b) provide under his or her hand and seal written certification of every sentence and, if relevant, any mitigation or suspension; and
 - (c) in pronouncing sentence (and any mitigation or suspension), not be obligated to provide any reasons for the sentence (and any mitigation or suspension).
- (2) The written certification shall be lodged with the Tribunal Secretary and a copy shall be sent to the accused.

PART X – COSTS

48. (1) The diocesan tribunal has no power to award costs of any proceedings before it.
- (2) A person who is defending a charge before the diocesan tribunal may apply to the Diocesan Council for the provision of financial assistance in meeting legal costs associated with such defence.
- (3) The Diocesan Council may grant financial assistance to a person who is defending a charge before the diocesan tribunal on such conditions as it shall determine.

PART XI - APPEAL

49. Any decision or recommendation of a diocesan tribunal may be appealed to the appellate tribunal within 28 days of the decision or recommendation being issued by the diocesan tribunal. No appeal shall lie to the appellate tribunal in respect of any sentence handed down by the Bishop.
50. No appeal of any decision or recommendation of a diocesan tribunal or a sentence handed down by the Bishop shall be available to any provincial tribunal constituted by the Constitution of the Anglican Church of Australia.

PART XII - RECORDS

51. (1) The Tribunal Secretary shall keep a Register of Ecclesiastical Offences in which there shall be entered in respect of every charge which the Bishop or the Board (as appropriate) decides pursuant to clause 16, 17 or 18 to allow as a charge proper to be heard:
- (a) the name of the accused

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- (b) the date on which the charge was made
 - (c) the names of the accusers
 - (d) the nature but not the particulars of each offence charged and the date on which it was alleged to have been committed
 - (e) whether the accused was tried by a diocesan tribunal or dealt with under clause 21
 - (f) if the accused was tried by a diocesan tribunal - the date of the trial and the names of the members of the tribunal
 - (g) the judgement of the Bishop or (as the case may be) the decision of the tribunal as to each offence charged
 - (h) the recommendation (if any) of the tribunal
 - (i) the sentence (if any) and any mitigation or suspension of sentence and the date of pronouncement thereof.
- (2) No person other than the Bishop and the Tribunal Secretary shall have access to the Register of Ecclesiastical Offences except with the permission of the Bishop previously given in writing.
52. (1) Whenever a charge has been returned to the Tribunal Secretary pursuant to clause 16 the Tribunal Secretary shall as soon as is practicable seal up in a suitable container endorsed with the name of the accused the charge and every document attached thereto.
- (2) Whenever a trial has been held under this Ordinance the Presiding Member shall cause to be delivered to the Tribunal Secretary and the Tribunal Secretary shall as soon as is practicable seal up in a suitable container endorsed with the name of the accused the charge and every document attached thereto the reply (if any) of the accused the Articles of Accusation the transcript of evidence the record of proceedings every exhibit not directed by the tribunal to be handed back to the party who tendered it and all records of the tribunal.
- (3) The Tribunal Secretary shall preserve intact in the Diocesan Registry every container sealed up pursuant to this clause.
- (4) No person other than the Bishop shall have access to the contents of any container sealed up pursuant to this clause except with the permission of the Bishop previously given in writing.
53. If access to the Register of Ecclesiastical Offences or to the contents of any container referred to in clause 52 is bona fide required for the purposes of a trial under this Ordinance or an appeal or other legal proceedings, the Bishop shall give the necessary permission and every person permitted access may at his or her own expense take or be provided by the Tribunal Secretary with copies of (as the case may be) any relevant entry in the Register or any of the contents of the container but in every other case the Bishop may in his or her absolute discretion give or refuse the necessary permission.

PART XIII – MISCELLANEOUS

54. A certificate in writing signed by the Tribunal Secretary that a person is within the meaning of this Ordinance a person in holy orders:
- (a) licensed by the Bishop; or
 - (b) not licensed by the bishop but resident in the diocese,
- shall be prima facie evidence of the matters therein stated.
55. A document certified in writing signed by the Bishop to be a true copy of a written admonition in

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respect of ministerial duty given by him or her to a person and on a date specified in that certificate shall be prima facie evidence that written admonition was given by the Bishop to that person on that date in the terms appearing in the document.

56. Any document produced before a diocesan tribunal purporting to be sealed or signed by the Bishop or signed by the Tribunal Secretary shall in the absence of evidence to the contrary be deemed to be duly sealed or signed by the Bishop or signed by the Tribunal Secretary as the case may be.
57.
 - (1) Whenever it is provided by this Ordinance that any notice or other document shall be, or that any one shall cause any notice or other document to be given sent or presented to or served on any person that provision shall be deemed to have been complied with if the notice or document is given presented to or served on that person personally or sent by prepaid registered or certified post or otherwise addressed to him or her at his or her usual or last-known address.
 - (2) A notice or other document sent to any person addressed as aforesaid by prepaid registered or certified post shall be deemed to have been received by him or her on the day on which he or she would have received it in the ordinary course of post.
 - (3) A certificate in writing signed by the Tribunal Secretary that a notice or other document has been given presented to or served on any person personally or sent to any person addressed as aforesaid by prepaid registered or certified post shall be conclusive as to the matters therein stated including any matters therein stated relating to time date or place of posting.

SCHEDULE A

FORM OF CHARGE

1. I (or: We) (insert name or names) of (insert address or addresses)

do hereby make charge that the Reverend (insert name) of (address) (if appropriate add: incumbent of the parish of [name]) being a person in holy orders licensed by the Bishop of Newcastle (or as the case may be or being a person in holy orders not licensed by the Bishop of Newcastle but resident in the Diocese of Newcastle) has committed the offence of :

(here describe the offence in accordance with the appropriate words in the definition of "offence" in Clause 4(1) of the Ordinance)

in that he or she (here give particulars of the time, place and circumstances of the offence).
2. I (or: We) have attached hereto a list showing the names and address of witnesses now known to me (or: us) who can give evidence relating to the said charge.
3. I (or: We) have attached hereto the documentary evidence now in our possession relating to the said charge.

(or:)
I (or: We) have no documentary evidence in our possession relating to the said charge.
4. I (or: We) desire that the said charge be dealt with in accordance with the Constitution of the Anglican Church of Australia and the Clergy Discipline Ordinance 2019 of the Diocese of Newcastle.
5. I do (or: Each of the undersigned does) hereby solemnly and sincerely declare as follows:

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- A. I have been duly appointed by the Bishop of Newcastle to make the said charge.
- B. (if the offence charged is breach of faith ritual or ceremonial and declaration A is not appropriate);

I am:

1. over the age of eighteen years
2. within the meaning of the said Constitution a communicant member of the Anglican Church of Australia and am not a member of any other Church and am resident within the Diocese of Newcastle (if appropriate add: and a bona fide parishioner of the parish of [name]).

- C. (if the offence charged is not a breach of faith ritual ceremonial and declaration A is not appropriate):

I am:

1. of the age of eighteen years
2. within the meaning of the said Ordinance a member of the Anglican Church of Australia
3. not a member of any other church
4. resident within the Diocese of Newcastle.

- D. I do not make the said charge from any private ill-will towards the said Reverend (name) or from any improper motive.

- E. I believe the said charge to be substantially true.

Signature(s):

Date:

SCHEDULE B

DECLARATION OF MEMBER OF TRIBUNAL

I do solemnly and sincerely declare that I will well and truly try the (several) article(s) of accusation now to be exhibited before me and that I will to the best of my judgment and ability find according to the evidence.

SCHEDULE C

OATH OF WITNESS

The evidence which I shall give before this tribunal will be the truth the whole truth and nothing but the truth
So help me God.

AFFIRMATION OF WITNESS

I do solemnly and sincerely affirm that the evidence which I shall give before this tribunal will be the truth the whole truth and nothing but the truth.

DRAFT