

## BILL 09

# 5 A BILL FOR THE HOLY ORDERS (REMOVAL FROM EXERCISE OF MINISTRY) CANON 2017

## 10 EXPLANATORY MEMORANDUM

### General Background

- 15 1. The Doctrine Commission in a report to the Standing Committee of General Synod (attached) considered the nature and scope of what is referred to as deposition from Holy Orders.
- 20 2. As a result of that report it became clear that the Holy Orders Relinquishment and Deposition Canon 2004 needed to be reconsidered and rewritten. Three areas in particular needed to be addressed clearly and consistently.
- 25 a. The limit of what any process can achieve is to remove a cleric from the *exercise of Holy Orders*.
- b. Deposition in English canon law (and therefore as used in our Constitution) can be only from the exercise of *all* orders; however, the Constitution also refers to prohibition from functioning, and that sentence can include prohibition from functioning in some only orders of ministry.
- 30 c. Allowing both voluntary relinquishment and disciplinary removal to be from only some of the offices of Bishop, Priest and Deacon (although only in descending order, as it were).
- 35 3. The new bill is based on the 2004 Canon, and substantially preserves many of its provisions. A comparison of the Bill and existing Canon is attached. The Standing Committee decided that consideration of this proposal by the General Synod would be facilitated by having it presented in the form of a new Canon rather than as an amending Bill.
- 40 4. The option of voluntary deposition in the present (2004) Canon has been removed, as there appears to be no circumstances in which it differs from voluntary relinquishment.

### Status of this bill and canon

- 45 5. This canon concerns the discipline of the church and is therefore a special bill for the purposes of section 28 of the Constitution. Unless the General Synod otherwise determines, it will therefore become a provisional canon. By section 30 of the Constitution, the canon once made will not come into force in any diocese unless and until the diocese by ordinance adopts it.

## Notes on individual clauses

Clause 1 contains the title of the Canon.

Clause 2 defines the words and expressions used in the Canon.

**“deposition”** is defined to refer to the removal of the right to exercise Holy Orders, and to refer to all of those orders.

**"national register"** has the same meaning as in the present Canon.

**"person in Holy Orders"** now means not only a person ordained in this church, but also a person received into an order of ministry of this church.

**"relevant bishop"** for a priest or deacon means the Diocesan bishop of the diocese in which the clerk is licensed, and, for a priest or deacon who is unlicensed, the Diocesan bishop of the diocese in which they reside. In the case of a person who is a bishop, the relevant bishop is the Metropolitan of the Province in which the bishop is a Diocesan bishop or resides, with special provision made for bishops in extraprovincial dioceses and for Metropolitans and the Primate.

**“relinquishment”** means the voluntary cessation of the exercise of one or more of the orders of ministry.

**"tribunal"** has the same meaning as in the present Canon, being a tribunal established under Chapter IX of the Constitution or by diocesan legislation.

Further provisions extend the meaning of Diocesan bishop to include the administrator of a Diocese *pro tempore*; and define **"order of ministry"** to be a reference to the Holy Order of bishop, of priest or of deacon.

Clause 3 provides that a bishop may relinquish the order of bishop, or the order of bishop and priest, or the orders of bishop, priest and deacon; a priest may relinquish the order of priest, or the orders of priest and deacon; and a deacon may relinquish the order of deacon. This is done by executing an instrument to that effect that is endorsed with the consent of the bishop of the last diocese in which the person held a license (if that is not the diocese in which she or he now resides) and with the consent of the relevant bishop. That consent cannot be given if the person is currently the subject of a disciplinary investigation or charge.

Clause 4 allows for relinquishment to take place in a liturgical context.

Clause 5 sets out the options available for the sentence of prohibition from functioning. This is the first time a Canon of General Synod has sought to do this.

The options allow for infinite mixing and matching, covering some or all

orders of ministry, conditions, limited or unlimited periods of time, and different roles, places and circumstances. For example, a prohibition could be from the exercise of any order of ministry permanently in Diocese X, from the exercise of the order of bishop in any Diocese, and from the exercise of the order of priest as the incumbent or priest in charge of a parish for the next five years.

Sub-clause (2) makes it clear that a permanent prohibition on the exercise of all orders of ministry must be by deposition.

Sub-clause (3) provides that effect is given to such a sentence by an instrument in the form of Schedule 2.

- Clause 6 provides that deposition following the sentence of a tribunal is effected by the form in Schedule 3.
- Clause 7 provides that any of the instruments made under this Canon must be registered in the registry of the relevant bishop and of the diocese(s) in or for which the person was ordained, and registered in the national register.
- Clause 8 provides that the bishop executing an instrument must also give notice of it, and of the reasons for it, to such persons as the bishop considers necessary.
- Clause 9 provides that a prohibition from functioning has effect according to what is in it, and reinforces that by providing that the person prohibited must not act inconsistently with the prohibition.
- Clause 10 provides that a person who has relinquished the exercise of some orders of ministry must not act inconsistently with the terms of that relinquishment.
- Clause 11 provides that a person who has relinquished or been deposed from the exercise of all orders of ministry must not act or present himself or herself as in any way as a person in Holy Orders.
- Clause 12 provides for a process by which a person who has relinquished the exercise or some or all orders of ministry may seek to have that relinquishment revoked.
- Clause 13 provides that clauses 10 and 11 do not apply to a person whose relinquishment of orders has been revoked.
- Clause 14 creates offences where a person who has relinquished an order of ministry holds out that the person continues to exercise that order, or where a person who has been deposed holds himself or herself out to be a member of the clergy.
- Clause 15 provides that Canon 76 of the Canons of 1603 has no effect. Although it is arguable that this is unnecessary given that the 2004 Canon has already provided to that effect, it is considered helpful to carry that provision forward into the current Canon.
- Clause 16 repeals the 2004 Canon.
- Clause 17 states that the Canon affects the order and good government of this Church within a diocese and does not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese

- Schedule 1 contains the instruments relevant to the relinquishment of the exercise of one or more orders of ministry
- Schedule 2 contains the instruments necessary following the sentence of a tribunal that include prohibition from functioning
- Schedule 3 contains the instruments relevant to deposition.
- Schedule 4 contains the forms of notice consequence on relinquishment, prohibition from functioning or deposition.