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**DIOCESE OF ROCKHAMPTON**  
**THE TRIBUNAL CANON OF 1972-2009**

***Preamble***

Whereas it is expedient to make amended provision for trial by way of Tribunal BE IT THEREFORE DECLARED and established by the Bishop, Clergy and Laity of the Diocese of Rockhampton in Synod assembled as follows:-

**PART I - PRELIMINARY**

1. (1) This Canon may be cited as the "Tribunal Canon of 1972".
- (2) The "Tribunal Canon 1893" and Amendments thereto heretofore in existence in this Diocese is in this Section referred to as the former Canon.
- (3) The former Canon is hereby repealed.
- (4) The repeal effected by Sub-Section (3) of this Section 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 penalty forfeiture sentence or punishment may be imposed as if this Canon had not been made.
- (5) References in any other Canon of the Diocese to the former Canon shall unless the contrary intention appears, be construed as references to this Canon.

2. This Canon is divided into Parts as follows:-

Part I	Preliminary (Sections 1-3)
Part II	Charges (Sections 4-9)
Part III	The Board of Enquiry (Section 10)
Part IV	Procedure as to Charges (Sections 11-18)
Part V	Diocesan Tribunals (Sections 19-20)
Part VI	The Trial (Sections 21-28)
Part VII	Decision, Recommendation and Sentence (ss 29-38)
Part VIII	Appeal (Section 39)
Part IX	Records (Sections 40-42)
Part X	Suspension (Section 43)
Part XI	Miscellaneous (Sections 44-47)

3. (1) In this Canon (including this Section of this Canon) unless the context or subject matter otherwise requires or indicates

"accused" means a person to whom this Canon applies against whom a charge is made

"accuser" means a person who makes a charge and where a charge is made by more than one person "the accuser" means "each of the accusers"

"the advocate" means the Advocate of the Diocese appointed pursuant to this Canon

"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 Rockhampton

"the board" means the Board of Enquiry constituted as provided by this Canon

"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

"charge" means a charge made pursuant to this Canon

"the Church" means the Anglican Church of Australia

"diocesan tribunal" or "tribunal" means a diocesan tribunal constituted as provided by this Canon

"the Diocese" means the Diocese of Rockhampton

"discipline" includes the Rules of the Church and the rules of good conduct

"doctrine" means the teaching of the Church of any question of faith

"faith" includes the obligation to hold the faith

"incumbent" has the same meaning as that contained in the Parish Canon 1974-2004

"Licence" means a licence under Seal of the Bishop

"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 is a member of the Church and not a member of any other Church

"offence" means any of the following:-

- (a) breach of faith ritual ceremonial or discipline
- (b) unchastity
- (c) drunkenness
- (d) habitual or wilful neglect of ministerial duty after written admonition in respect thereof by the Bishop
- (e) wilful failure to pay just debts
- (f) conduct disgraceful in a clergyman and productive or likely to be productive of scandal or evil report

- (g) absent from his or her Cure Parish District or Office of any licensed Clergyman without leave in writing of the Bishop
- (h) wilful contravention or violation of the provisions of the Constitution Canons Rules or Regulations of the Synod.

"parish" means parish as defined by the Parochial Canon of the Diocese as amended from time to time or by any Canon (as amended from time to time) replacing that Canon

"parishioner" means a member of the Church who is entitled to vote at a meeting of a parish for the election of Church Wardens or who if no such meeting is provided for is at least twenty-one years of age

"person to whom this Canon applies" means a person licensed by the Bishop or any other person in Holy Orders resident in this Diocese

"the Registrar" means the Registrar of the Diocese

"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 Canon a reference to faith includes a reference to doctrine.
- (3) In this Canon a reference to Schedule is a reference to a Schedule to this Canon and a reference to a Section is a reference to a Section of this Canon.

## **PART II - CHARGES**

- 4. (1) A charge that he or she has committed an offence may be made as provided by this Canon against any person to whom this Canon applies.
- (2) Every charge so made shall be dealt with as provided by this Canon.
- 5. (1) If a person to whom this Canon applies is convicted in a criminal court of an offence which is punishable by law a charge against him or her that he or she has committed that offence may not be made at any time after the lapse of six calendar months after he or she has been so convicted.
- (2) Subject to Sub-Section (1) of this Section no charge that an offence has been committed may be made more than two years after that offence has been committed.
- (3) For the purpose of this Section the presenting to the Registrar of a charge which in all respects complies with the requirements of this Canon as to the making of charges shall constitute the making of that charge.
- 6. (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

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- (ii) any five adult communicant members of the Church who are both resident within the Diocese and also bona fide parishioners of that parish
    - (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) the Bishop of his own mere motion or
    - (b) a person appointed by the Bishop or
    - (c) any other adult communicant member of the Church resident within the Diocese.
- 7.
- (1) Every charge shall be made by written instrument in or to the effect of the form set forth in Schedule A signed by the accuser. Accusers may sign separate instruments and the separate instruments shall be read together.
  - (2) Every charge shall be accompanied by all documents therein referred to as attached.
  - (3) Every charge shall be presented by the accuser to the Registrar and every charge not made by the Bishop shall forthwith be presented (together with all documents attached thereto) by the Registrar to the Bishop.
- 8.
- (1) This Section 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 he shall by whatever means he shall in his absolute discretion think fit determine whether the charge is made by persons who in number and qualification fulfil the appropriate requirements of Sub-section (1) of Section 6.
  - (3) If the Bishop determines that the charge is not so made he shall cause the charge to be returned to the person who presented it to the Registrar and shall cause each of the persons who made the charge to be given notice in writing of his determination and of the reason therefore and no further action shall be taken under this Canon with respect to that charge unless and until it is made by persons who in number and qualifications fulfil the appropriate requirements of Sub-section (1) of Section 6 and within the time specified by Section 5.
- 9.
- A charge shall on its mere production before the Board (or a Diocesan Tribunal) be prima facie evidence of the truth of the declarations made in it in accordance with paragraph 5 of the form set forth in Schedule A.

### **PART III - THE BOARD OF ENQUIRY**

10. (1) There shall be a Board of Enquiry constituted as hereinafter provided.

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- (2) The Board shall consist of seven members - namely a Chairperson, three (3) members of the clergy and three (3) members of the laity.
- (3)(a) At every session of Synod the Bishop shall appoint one (1) member of the Synod to be the Chairperson of the Board and one (1) member of the clergy and one (1) member of the laity to be members of the Board.
- (b) It shall not be necessary for the member of the clergy or the member of the laity appointed by the Bishop to be members of Synod but the persons so appointed must in the opinion of the Bishop possess relevant experience and/or professional qualifications.
- (c) At every session of Synod the Synod shall elect from among its members two (2) members of the clergy and two (2) members of the laity to be members of the Board.
- (4) Subject to Sub-Section (5) of this Section the members of the Board shall hold office until their successors are appointed.
- (5) The office of a member of the Board shall ipso facto be vacated if he -
- (a) being the Chairperson of the Board or a member of the Board elected by Synod 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 Canon with an offence.
- (6) If the Chairperson of the Board or a member of the Board dies or if the office of the Chairperson or a member of the Board otherwise becomes vacant pursuant to sub-section 10 (5) the Bishop shall appoint a person to replace the Chairperson or such member provided that where such member was elected by Synod the person so appointed shall be a member of Synod and provided also that the Bishop may appoint only a member of clergy to fill a vacancy caused by the death or otherwise of a member of the Board who was a member of clergy and may appoint only a member of the laity to fill a vacancy caused by the death or otherwise of a member of the Board who was a member of the laity.
- (7) A quorum of the board shall be three members namely -
- (a) the Chairperson
  - (b) a Clergyman
  - (c) a Layman

Provided that each of the two (2) members other than the Chairperson shall (to the extent to which the operation of any of Sub-Section (5) and (6) of this Section does not otherwise require) be a member elected by the Synod.

#### **PART IV - PROCEDURE AS TO CHARGES**

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11. (1) The Bishop shall refer to the Board every charge of breach of faith ritual or ceremonial and all documents attached thereto and the Board shall without the necessity of hearing any person decide whether or not to allow it as a charge proper to be heard and shall inform the Bishop of its decision
- (2) The Bishop shall as to every charge which is neither:-
- (a) a charge of breach of faith ritual or ceremonial, or
- (b) a charge made by the Bishop of his own mere motion without the necessity of hearing any person decide whether or not to allow it as a charge proper to be heard.
12. If the Board or the Bishop as the case may be decides pursuant of Section 11 not to allow a charge as a charge proper to be heard the Bishop shall cause the accuser to be given notice in writing accordingly and the charge shall be returned to the Registrar and no further action shall be taken under this Canon with respect to that charge.
13. (1) A charge which the Board or the Bishop as the case may be decides pursuant to Section 11 to allow as a charge proper to be heard shall be dealt with as provided in the Sections of this Canon which succeed this Section and those Sections shall apply only to such charge.
- (2) A charge made by the Bishop of his own mere motion shall be deemed to be a charge which the Bishop decides pursuant to Section 11 to allow as a charge proper to be heard.
14. The Bishop shall cause to be served on the accused within one (1) month of a charge being presented to the Registrar:-
- (a) a copy of the charge and of each document attached thereto
- (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.
15. (1) If he or she so desires the accused may in his or her reply -
- (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-Section (1) of this Section "submit as prescribed" means "submit himself or herself without further proceedings to such judgment and sentence in respect of the offence (or offences, as the case may be) the commission of which he or she admits as the Bishop shall think fit to pronounce."
16. (1) This Section shall apply in the following cases only:-
- (a) Case A of Section 1
- (b) Case B of Section 15
- (2) The Bishop shall cause the accused and the accuser to be given notice in writing -

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- (a) that the accused having admitted the commission of the offence (or as the case may be of each of the offences) charged and having submitted as provided by Section 15 the Bishop intends to pronounce judgment and sentence at the time and place specified in the notice.
      - (b) that all persons who so desire may then be present
      - (c) that the accused will then be given opportunity to show cause and if he or she so desires to be heard in excuse or mitigation or both before judgment and sentence are pronounced and may in the meantime make to the Bishop written representations in excuse or mitigation or both.
    - (3) Subject to his giving the accused opportunity to show cause and to his hearing the accused at the time and place specified in the notice if he or she wishes to be heard in excuse or mitigation or both the bishop shall pronounce judgment and sentence either then or there or subsequently at a time and place of which he shall cause the accused and the accuser to be given notice beforehand orally or in writing.
    - (4) The Bishop may in addition to pronouncing sentence suspend the operation of the sentence. If he does so and if the operation of the sentence remains suspended for a period of two (2) years that sentence shall thereafter have no operation. Every sentence shall if its operation is not suspended commence to operate immediately it is pronounced.
    - (5) When in a case to which this Section applies the action prescribed by this Section has been taken, no further action other than that which may be required by Sections 38, 40 and 41 shall be taken under this Canon with respect to the charge.
  17.
    - (1) Subject to Section 16 -
      - (a) the accused shall be tried by a Diocesan Tribunal and
      - (b) the Bishop shall appoint an Advocate of the Diocese who shall be a communicant member of the Church and a Barrister or Solicitor of the Supreme Court of Queensland and he shall prosecute the charge.
      - (c) The Bishop shall send to the Advocate the charge, all documents therein referred to, a copy of the notice referred to in Section 14 and the reply (if any) of the accused and the Advocate shall thereupon prepare Articles of Accusation and send them and the charge to the Registrar.
    - (2) Articles of Accusation shall (in a separate Article for each offence if more than one offence is charged) with reasonable particularity specify every offence charged and the time, place and circumstances thereof.
  18. On receiving the Articles of Accusation the Registrar shall cause to be served -
    - (a) upon the accuser and the accused - copies of the Articles of Accusation
    - (b) upon the accused - a citation to appear (at such time not less than fourteen (14) nor more than forty (40) days from the date of citation and at such place as shall be specified in the citation) before a Diocesan Tribunal to answer the Articles of Accusation
    - (c) upon the accuser - a copy of the citation

- (d) upon the accuser and the accused - notices in writing requiring them to procure the attendance before the Tribunal of such witnesses as they may severally desire for the purpose of accusation or defence.

#### **PART V - DIOCESAN TRIBUNALS**

19. (1) (a) At every session of Synod four (4) members of the Synod shall be elected either by ballot or otherwise as the Synod shall then determine, to be members of a Panel of Triers.
- (b) At every session of Synod the Bishop shall appoint one (1) member of the clergy and one (1) layperson to be members of the Panel of Triers.
- (c) It shall not be necessary for the member of the clergy or the layperson so appointed to be members of the Synod but the persons so appointed must in the opinion of the Bishop possess relevant experience and/or professional qualifications.
- (d) The persons elected by the Synod in accordance with sub-section (2) of the is section together with the persons so appointed by the Bishop shall together constitute the Panel of Triers.
- (2) Of the four (4) members to be elected by Synod two (2) shall be Clergymen elected by the members then present of the house of Clergy and two (2) shall be Laymen elected by the members then present of the House of Laity.
- (3) No member of the Board of Enquiry shall be eligible to be a member of the Panel of Triers.
- (4) Subject to Sub-Section (5) of this Section the members of the Panel of Triers shall hold office until their successors are appointed.
- (5) The office of a member of the Panel of Triers shall ipso facto be vacated if he or she -
- (a) being a member of the Panel of Triers elected by Synod ceases to be a member of the 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 Canon with an offence.
- (6) If at any time so many vacancies have occurred that a Diocesan Tribunal cannot be duly constituted for a Trial which in the opinion of the Bishop should be commenced before the next following session of the Synod the Diocesan Council may from among the members of the Synod fill any or all of the vacancies for the purposes only of that Trial by appointing Clergymen in the place of Clergymen and Laymen in the place of Laymen to hold office for the duration only and for the purposes only of that Trial.
20. (1) A Diocesan Tribunal shall be duly constituted for the Trial of an accused so long as it consists of the following members -
- (a) either -

- (i) the President and a Deputy President, or
- (ii) a Deputy President, and
- (b) not less than two of the Clerical members of the Panel of Triers and
- (c) not less than two of the Lay members of the Panel of Triers

Provided that the Tribunal shall always consist of an equal number of clerical and lay members of the Panel of Triers.

- (2) The President shall be the Bishop.
- (3) The Deputy President shall be appointed by the Bishop but the Bishop may appoint as Deputy President only the Chancellor or some other Barrister or Solicitor of the Supreme Court of Queensland who is a communicant member of the Church and who is not a member of the Panel of Triers or of the Board.
- (4) The President shall preside over the Trial if he is present. If the President is not present the Deputy President shall preside over the Trial and shall and may do all things which this Canon requires or permits the President to do.
- (5) If after the commencement of a Trial a member of the Tribunal ceases to hold office by reason of Sub-Section (4) of Section 19 and otherwise than by reason of Section (4) of Section 19 and otherwise than by reason of Sub-Section (5) of Section 19 and is not re-elected to the Panel of Triers, he or she shall nevertheless continue to be a member of that Tribunal (but for the purposes only of that Trial) and the Tribunal shall not by reason of his or her ceasing to hold office be deemed not to be duly constituted for those purposes.
- (6) If after the commencement of a Trial a member of the Tribunal ceases to hold office by reason of Sub-Section (5) of Section 19 he or she shall ipso facto cease to be a member of the Tribunal.

#### **PART VI - THE TRIAL**

- 21. (1) A Diocesan Tribunal shall assemble at the time and place appointed in the citation. Each member shall make the declaration set forth in Schedule B. The Trial shall then be commenced by the President causing the accused to be summoned to appear before the Tribunal.
- (2) The accused may appear in person or by counsel or Solicitor or (if charged with breach of faith ritual or ceremonial) by a person in Holy Orders.
- (3) If the accused does not appear the Trial may upon proof of due service of the citation upon the accused proceed in his or her absence to hearing and decision and the Bishop may pronounce sentence.
- (4) If the accused appears or if the Trial proceeds as aforesaid in his or her absence the President shall then read or cause to be read the Articles of Accusation.

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- (5) If the accused appears he or she shall then be called upon to plead to each Article and his or her plea or pleas shall be recorded. If he or she neglects or refuses to plead to any Article a plea of not guilty to that Article shall be entered on his or her behalf.
- (6) If the accused does not appear and the Trial proceeds as aforesaid in his or her absence a plea of not guilty to each Article 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.
22. The Tribunal may during the Trial permit amendment of the Articles of Accusation upon such terms (if any) as it thinks fit.
23. (1) Witnesses shall be examined on oath or affirmation and each before giving evidence shall make the declaration oath or affirmation set forth in Schedule C. The evidence of each witness shall be reduced to writing and signed by him.
- (2) The rules of evidence prevailing and in force in the Supreme Court of Queensland, including provisions relating to judicial notice proof and admissibility contained in State or Federal Acts of Parliament shall so far as is practicable apply in a Trial and for the purposes of the application of those Rules and provisions a Tribunal and a Trial shall be taken to be respectively a Court and a legal proceeding.
24. (1) The Bishop and the Chancellor may from time to time in writing signed by them make and alter rules for the conduct of Trials before Diocesan Tribunals. All rules and alterations so made shall be laid before the next succeeding session of the Synod and shall unless and until disallowed by the Synod have the force of a Canon of the Synod.
- (2) Subject to any rules so made and to the provisions of this Canon the Tribunal shall so far as is practicable follow the procedure of the Supreme Court of Queensland.
25. The case against the accused shall be conducted before the Tribunal by the Advocate.
26. The Deputy President shall determine all questions arising during the Trial which are questions of law or questions of the admissibility of evidence.
27. In any Trial where an issue is whether there has been a breach of doctrine -
- (a) the opinion of experts shall be admissible as to:-
- (i) the principles of the doctrine
- (ii) whether on the facts there has been a breach of the doctrine.
- (b) The President shall determine what are the principles of doctrine that are applicable.
- (c) The Tribunal shall determine whether on the facts there has been a breach of the principles so determined by the President.
28. The proceedings of a Tribunal shall be attended by the Registrar as an officer of the Tribunal and shall be open to the public provided that the President at any stage of the 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 may in his absolute discretion think fit.

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**PART VII - DECISION, RECOMMENDATION AND SENTENCE**

29. After due examination and hearing of the case and after due deliberation the Tribunal shall decide the issue as to each offence alleged and if it decides that the accused is guilty of any offence shall make such recommendations as it thinks just in the circumstances but shall not recommend any sentence other than one or more of the following, that is to say, monition suspension from office, expulsion from office, deprivation of rights and emoluments appertaining to office, deposition from Holy Orders.
30. Each member of the Tribunal shall have one vote as to its decision. If the votes of the Tribunal on an issue are equally divided, the issue shall be deemed to have been decided in favour of the accused.
31. A recommendation made by the Tribunal shall be that recommendation (if any) which is supported by the greatest number of votes of members. The Bishop if he has presided over the Trial may be present at and take part in the deliberations of the Tribunal as to its recommendation but shall have no vote as to its recommendation. Each other member of the Tribunal shall have one vote and the Deputy President shall in addition to his vote as a member have a casting vote.
32. If the Bishop has not presided over the Trial the Deputy President shall forthwith give him notice in writing of the decision and the recommendation (if any) of the Tribunal.
33. Upon the decision and the recommendation (if any) of the Tribunal becoming known to the Bishop he shall forthwith:-
  - (a) If every issue has been decided in favour of the accused - cause the accused and the accuser to be given notice in writing of the decisions and if the accused so requests issue a certificate in an appropriate form under his hand and seal
  - (b) in every other case - cause the accused and the accuser to be given notice in writing of the decision and recommendation (if any) of the Tribunal and cause the members of the Tribunal the accused and the accuser to be given notice in writing
    - (i) that the Bishop intends to pronounce sentence at the time and place specified in the notice
    - (ii) that all persons who so desire may then be present
    - (iii) that the accused will then if he or she so desires be heard in mitigation of sentence before sentence is pronounced and may in the meantime make to the Bishop written representation in mitigation of sentence.
34. (1) This Section applies where notice is given in accordance with paragraph (b) of Section 33
- (2) Subject to his hearing the accused at the time and place specified in the notice if he or she wishes to be heard in mitigation of sentence the Bishop shall pronounce sentence either then and there or subsequently at a time and place of which he shall cause the accused and the accuser to be given notice beforehand orally or in writing.
35. If the Tribunal makes no recommendation as to sentence the Bishop shall pronounce such sentence as he thinks fit and may in the exercise of his prerogative of mercy suspend the operation of a sentence.

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36. (1) The Bishop shall give effect to any recommendation made by the Tribunal provided that if a sentence is recommended he may consult with the Tribunal and in the exercise of his prerogative of mercy -
- (a) mitigate the sentence, or
  - (b) suspend its operation, or
  - (c) mitigate the sentence and suspend its operation.
- (2) If a sentence is recommended the Bishop shall pronounce that sentence even though he mitigates it or suspends its operation and shall also pronounce any mitigation or suspension.
37. (1) If the operation of a sentence or mitigated sentence has been suspended and remains suspended for a period of two (2) years that sentence or mitigated sentence shall thereafter have no operation.
- (2) Every sentence or mitigated sentence shall if its operation is not suspended commence to operate immediately it is pronounced.
38. (1) The Bishop shall by writing under his hand and seal certify every sentence and every mitigation or suspension.
- (2) The certificate shall be lodged with the Registrar and a copy shall be sent to the accused.
- (3) This Section shall apply both where sentence is pronounced after a Trial and where sentence is pronounced pursuant to Section 16.

#### **PART VIII - APPEAL**

39. (1) An appeal will lie to the Appellate Tribunal from every recommendation or sentence of a Diocesan Tribunal PROVIDED THAT the provisions of this Sub-Section shall not extend to a ruling of a Tribunal of an interlocutory nature;
- (2) In no case shall an appeal lie from any determination of a Diocesan Tribunal to any provincial Tribunal constituted by the Constitution of the Church of England in Australia.

#### **PART IX - RECORDS**

40. (1) The Registrar shall keep a Register of Ecclesiastical Offences in which there shall be entered in respect of every charge which within the meaning of Section 13 the Board or the Bishop decides pursuant to Section 11 to allow as a charge proper to be heard -
- (a) the name of the accused
  - (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

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- (e) whether the accused was tried by a Diocesan Tribunal or dealt with under Section 16
  - (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 judgment of the Bishop or (as the case may be) the decision of the Tribunal as to each offence charged
  - (h) the recommendation (if any) and any mitigation or suspension of sentence and the date of pronouncement thereof;
- (2) No person other than the Bishop and the Registrar shall have access to the Register of Ecclesiastical offences except with the permission of the Bishop previously given in writing.
41. (1) Whenever a charge has been returned to the Registrar pursuant to Section 12 the Registrar 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 Canon the President shall cause to be delivered to the Registrar and the Registrar 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 and 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 Registrar shall subject as hereinafter provided preserve intact in the Diocesan Registry every container sealed up pursuant to this Section.
- (4) No person other than the Bishop shall have access to the contents of any container sealed up pursuant to this Section except with the permission of the Bishop previously given in writing.
- (5) The Registrar shall as soon as is practicable after the death of the accused destroy every container and the contents of any container sealed up pursuant to this Section and endorsed with the name of the accused.
42. If access to the Register of Ecclesiastical Offences or to the contents of any container referred to in Section 41 is a bona fide required for the purposes of a Trial under this Section or an appeal or other legal proceedings the Bishop shall give the necessary permission and every person permitted access may at his own expense take or be provided by the Registrar 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 absolute discretion give or refuse the necessary permission.

#### **PART X - SUSPENSION**

43. Where a charge is pending before a Tribunal against any person licensed by the Bishop, the Bishop with the concurrence of the Diocesan Council may suspend such person from the duties of his office until the determination of his charge, and may make such arrangements for the performance of the duties of the office as may be authorised by any Canon or in the absence of any such Canon as the Bishop may deem proper.

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**PART XI - MISCELLANEOUS**

44. A certificate in writing signed by the Registrar that a person is within the meaning of this Canon a person -
- (a) licensed by the Bishop, or
  - (b) not licensed by the Bishop but in Holy Orders and resident in the Diocese
- shall be prima facie evidence of the matters therein stated.
45. A document certified in writing signed by the Bishop to be a true copy of a written admonition in respect of ministerial duty given by him to a person and on a date specified in the 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.
46. Any document produced before a Diocesan Tribunal purporting to be sealed or signed by the Bishop or signed by the Registrar shall in the absence of evidence to the contrary be deemed to be duly sealed or signed by the Bishop or signed by the Registrar as the case may be.
47. (1) Whenever it is provided by this Canon that any notice or other document shall be, or that anyone 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 at his usual or last-known address, provided however the documents mentioned in Sections 14, 16 and 18 shall be served personally or if personal service cannot be effected, by such other means as the Bishop shall determine.
- (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 on the day on which he would have received it in the ordinary course of post.
- (3) A certificate in writing signed by the Registrar 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 the 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 (insert name) of (address) (if appropriate add: incumbent of the parish of (name)) being a person (if appropriate add: in Holy Orders) licensed by the Bishop of Rockhampton (or as the case may be: being a person in Holy Orders not licensed by the Bishop of Rockhampton but resident in the Diocese of Rockhampton) has committed the offence of (here describe the offence in accordance with the appropriate words in the definition of "offence" in Section 3 (1) of the Canon) in that he (here give particulars of the time, place and circumstances of the offence).

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2. I (or: We) have attached here to a list showing the names, 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 Tribunal Canon 1972 of the Diocese of Rockhampton.
  5. I do (or: Each of the undersigned does) hereby solemnly and sincerely declare as follows:
    - A. I have been duly appointed by the Bishop of Rockhampton to make the said charge
    - B. (if declaration A is not appropriate): I am
      1. over the age of twenty-one years (or: of the age of (number) 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 Rockhampton (if appropriate add: and a bona fide parishioner of the parish of (name)).
    - C. I do not make the said charge from any private ill will towards the said (name) or from any improper motive.
    - D. 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.