

CLERGY DISCIPLINE ORDINANCE 1966

(As amended 2017)

AN ORDINANCE

To provide for the Trial of Clergy for Ecclesiastical Offences.

Whereas it is expedient to provide for the trial for ecclesiastical offences of persons in holy orders licenced by the Bishop of Grafton and of other persons in holy orders resident in the Diocese of Grafton.

Be it enacted by the Bishop, Clergy and Laity of the Diocese of Grafton.

Part I - PRELIMINARY

1.

- (1) This Ordinance may be cited as the Clergy Discipline Ordinance 1966.
- (2) The Ecclesiastical Discipline Ordinance 1914 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- (3) The former Ordinance is hereby repealed.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:
 - (a) Revive anything not in force or existing at the time at which the repeal takes effect; or
 - (b) Affect the previous operation of, or anything duly done or suffered under, the former Ordinance; or
 - (c) Affect any right privilege obligation or liability accrued or incurred under the former Ordinance; or
 - (d) Affect any penalty forfeiture sentence or punishment incurred in respect of any offence triable under the former Ordinance; or
 - (e) Affect any investigation trial proceeding or remedy in respect of any such right privilege obligation liability penalty forfeiture sentence or punishment aforesaid;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 has not been made.

2. This Ordinance is divided into Parts as follows:

- Part I Preliminary (Clauses 1-3)
- Part II Charges (Clauses 4-9)
- Part III The Board of Enquiry (Clause 10)
- Part IV Procedure as to Charges (Clause 11-18)
- Part V Diocesan Tribunals (Clauses 19-20)
- Part VI The Trial (Clauses 21-28)
- Part VII Decision, Recommendation and Sentence (Clauses 29-38)
- Part VIII Appeal (Clause 39)
- Part IX Records (Clauses 40-42)
- Part X Miscellaneous (Clauses 43-46)

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 clergy to whom this Ordinance applies means:

- (a) a member of clergy licensed by the Bishop and resident in the Diocese;
- (b) a member of clergy resident in the Diocese;
- (c) a member of clergy in respect of whom a charge is made arising from an act or actions of the member in the Diocese;
- (d) a member of clergy who within 2 years before a charge is laid was licensed by the Bishop and was resident in the Diocese;
- (e) a member of clergy who is in prison as a convicted person at the time the charge is laid, but who within 2 years before such imprisonment was licensed by the Bishop or was ordinarily resident in the Diocese.

"**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 Ordinance;

"**the Bishop**" means the Bishop of Grafton;

"**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;

"**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 Grafton;

"**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;

"**licence**" means a licence under seal of the Bishop, and "**licensed**" has a meaning corresponding with that of "licence";

"**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;

"**member of the Church**" means a baptised person who attends the public worship of the Church and who declares to be 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) bankruptcy;
- (f) wilful failure to pay just debts;
- (g) conduct, whenever occurring:
 - (i) which would be disgraceful if committed by a member of the clergy, and;
 - (ii) which at the time the charge is preferred is productive or, if known publicly would be productive, of scandal or evil report.
- (h) any offence punishable by law being a malum in se;

"**parish**" means parish as defined by the Grafton Diocesan Governance Ordinance 2008 as amended from time to time or by any Ordinance (as amended from time to time) replacing that Ordinance;

"**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 eighteen years of age;

"**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 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.
- (4) In the event that an offence within the meaning of the ordinance is also a matter of examinable conduct within the meaning of the Professional Standards Ordinance 2004 the provision of that later Ordinance shall prevail.

Part II - CHARGES

- 4.
 - (1) A charge that he or she has committed an offence may be made as provided by this Ordinance against any member of the clergy to whom this Ordinance applies.
 - (2) Every charge so made shall be dealt with as provided by this Ordinance.
- 5.
 - (1) If a member of the clergy to whom this Ordinance applies is convicted in a criminal court of an offence which is punishable by law a charge against that member that he or she has committed that offence may not be made at any time after the lapse of six calendar months after such conviction.
 - (2) Save as aforesaid 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 clause the presenting to the Registrar of a charge which in all respect complies with the requirements of this Ordinance 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
 - (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's own mere motion; or
 - (b) a person appointed by the Bishop; or
 - (c) any other adult 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 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, by whatever means he or she shall in his or her absolute discretion think fit, determine whether the charge is made by persons who in number and qualifications fulfil the appropriate requirements of sub-clause (1) of clause 6.
 - (3) If the Bishop determines that the charge is not so made he or she 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 or her determination and of the reason therefore and no further action shall be taken under this Ordinance with respect to that charge unless and until it is made by persons who in number and qualification fulfil the appropriate requirements of sub-clause (1) of clause 6 within the time specified by clause 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 in it made 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.
- (2) The Board shall consist of seven members, namely, a chair, three clergy and three laypersons, all of whom shall be members of the Synod.
- (3)
 - (a) At the first ordinary session of each term of the Synod, the Synod shall elect from among its members two clergy by the members then present of the House of Clergy and two laypersons by the members then present of the House of Laity to be members of the Board.
 - (b) Following the first ordinary session of each term of the Synod, the Bishop shall appoint one person to be the chair of the Board and one member of the clergy and one layperson to be members of the Board.
- (4) Subject to sub-clause (5) of this clause a member of the Board 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 Board.
- (5) The office of a member of the Board shall ipso facto be vacated if he or she:
 - (a) 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 Ordinance with an offence.
- (6) If a member of the Board dies or if the office of a member of the Board is vacated pursuant to sub-clause (5) of this clause the Bishop may appoint a member of Synod to be a member of the Board in his or her place (but may appoint only a member of the clergy in place of a member of the clergy and only a layperson in place of a layperson).
- (7) A quorum of the Board shall be three members, namely:
 - (a) the chair,
 - (b) a member of the clergy,
 - (c) a layperson;Provided that each of the two members other than the chair shall (to the extent to which the operation, if any, of sub-clauses (5) and (6) of this clause does not otherwise require) be a member elected by the Synod.

Part IV - PROCEDURE AS TO CHARGES

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 nor
 - (b) a charge made by the Bishop's 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 to clause 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, the charge shall be returned to the Registrar, and no further action shall be taken under this Ordinance with respect to that charge.
13.
 - (1) A charge which the Board or the Bishop as the case may be decides pursuant to clause 11 to allow as a charge proper to be heard shall be dealt with as provided in the clauses of this Ordinance which succeed this clause, and those clauses shall apply only to such a charge.
 - (2) A charge made by the Bishop's own mere motion shall be deemed to be a charge which the Bishop decides pursuant to clause 11 to allow as a charge proper to be heard.
14. The Bishop shall cause to be served on the accused within one month of a charge being presented to the Registrar:
 - (a) a copy of the charge and of each document attached thereto; 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.
15.
 - (1) If the accused 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-clause (1) of this clause "submit as prescribed" means "submit oneself without further proceedings to such judgement 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 clause shall apply in the following cases only
 - (a) Case A of Clause 15;
 - (b) Case B of Clause 15.
 - (2) The Bishop shall cause the accused and the accuser to be given notice in writing
 - (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 clause 15, the Bishop intends to pronounce judgement 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 be heard in excuse or mitigation or both before judgement and sentence are pronounced and may in the meantime make to the Bishop written representations in excuse or mitigation or both.
 - (3) Subject to the Bishop giving the accused opportunity to show cause and to the Bishop 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 judgement and sentence either then and there or subsequently at a time and place of which he or she 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 the Bishop does so, and if the operation of the sentence remains suspended for a period of two 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 clause applies the action prescribed by this clause has been taken no further action other than that which may be required by clauses 38, 40 and 41 shall be taken under this Ordinance with respect to the charge.
- 17.
- (1) Subject to clause 16:
 - (a) The accused shall be tried by a diocesan tribunal, and;
 - (b) The Bishop shall appoint an Advocate of the Diocese to prosecute the charge and shall send to the Advocate the charge, all documents therein referred to, a copy of the notice referred to in Clause 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 nor more than forty days from the date of the 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) On the passing of this Ordinance and thereafter at the first session of every Synod eight members of the Synod shall be elected, either by ballot or otherwise as the Synod shall then determine, to be a Panel of Triers.
 - (2) Of the said eight members four shall be clergy elected by the members then present of the House of Clergy and four shall be laypersons 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-clause (5) of this clause a member of the Panel of Triers shall hold office until the conclusion of the first session of that Synod which next follows his or her election as a member of the Panel of Triers.
 - (5) The office of a member of the Panel of Triers shall ipso facto be vacated if he or she:
 - (a) ceases to be a member of the Synod, or

- (b) resigns this office, or
 - (c) refuses or neglects to act in this office, or
 - (d) becomes in the opinion of the Bishop incapable of acting in this office and is given notice accordingly in writing by the Bishop, or
 - (e) is charged under this Ordinance with an offence.
- (6) Any vacancy occurring in the Panel of Triers shall be filled by the House which elected the member whose place has become vacant electing one of its members in his or her place at the next session of the Synod.
- (7) Where there is a vacancy or vacancies occurring in the Panel of Triers such that a diocesan tribunal cannot be duly constituted for a trial which in the opinion of the Bishop should be commenced before the next session of the Synod, the vacancy may be filled by Bishop-in-Council for the balance of the term of the Synod where only the members of the House corresponding with the vacancy participate in the election.

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,
 - (ii) or 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.
- (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 barrister or solicitor who is not a member of the Panel of Triers or of the Board.
- (4) The President shall preside over the trial if present. If the President is not present the Deputy President shall preside over the trial and shall and may do all things which this Ordinance 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-clause (4) of clause 19 and otherwise than by reason of sub-clause (5) of clause 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 so 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-clause (5) of clause 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 a counsel or solicitor or (if he or she is 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 the absence of the accused to hearing and decision and the Bishop may pronounce sentence.
 - (4) If the accused appears or if the trial proceeds as aforesaid in the absence of the accused the President shall then read or cause to be read the Articles of Accusation.
 - (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 the accused 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 the accused's absence a plea of not guilty to each Article shall be entered on the accused's 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, provided that if the accused should claim he or she has been taken by surprise or prejudiced he or she shall be entitled to an adjournment.
- 23.
- (1) Witnesses shall be examined on oath or affirmation, and each before giving evidence shall make the declaration on oath or affirmation set forth in Schedule C. The evidence of each witness shall be reduced to writing and signed by the witness.
 - (2) The rules of evidence prevailing and in force in the Supreme Court of New South Wales, 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 purpose 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.
 - (3) Evidence that the accused has been convicted of an offence shall be admissible before the tribunal and proof of such conviction shall be evidence of the facts giving rise to such conviction, provided that this provision shall not apply if a conviction has been quashed or set aside or in respect of which a pardon has been given.
 - (4) The transcript of any criminal proceedings in which the member of clergy the subject of a charge before the tribunal was a party, shall be admitted as evidence in the same way as if the person whose evidence appears in the transcript had been given in person before the tribunal provided that the tribunal may exclude the whole or any part of such evidence should it consider that admission of the same would be likely to cause a serious injustice to the member of clergy charged.
- 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 an Ordinance of the Synod.

- (2) Subject to any rules so made and to the provisions of this Ordinance the tribunal shall so far as is practicable follow the procedure of the Supreme Court of New South Wales.
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 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 that they shall be held in private by reason of their subject matter or the misconduct of the audience or for any other reason that the President may in his or her absolute discretion think fit.

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 recommendation 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, 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 or she 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 voting as a member has a casting vote.
32. If the Bishop has not presided over the trial the Deputy President shall forthwith give the Bishop 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, the Bishop 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 decision; and if the accused so requests issue a certificate in an appropriate form under his or her hand and seal.

- (b) In every other case - cause the accused and the accuser to be given notice in writing of the decision and the recommendation (if any) 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 representations in mitigation of sentence.

34.

- (1) This clause applies where notice is given in accordance with paragraph (b) of clause 33.
- (2) Subject to the Bishop hearing the accused at the time and place specified in the notice if the accused 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 or she 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 or she thinks fit and may in the exercise of the Bishop's prerogative of mercy suspend the operation of a sentence.

36.

- (1) The Bishop shall give effect to any recommendation made by the tribunal, provided that if a sentence is recommended he or she may consult with the tribunal and in the exercise of the Bishop's 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 or she 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 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 or her 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 clause shall apply both where sentence is pronounced after a trial and where sentence is pronounced pursuant to clause 16.

PART VIII - APPEAL

39. An appeal shall lie in every case to the Appellate Tribunal of the Anglican Church of Australia but in no case shall an appeal lie from any determination of a diocesan tribunal to any provincial tribunal constituted by the Constitution of the Anglican Church of 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 clause 13 the Board or the Bishop decides pursuant to clause 11 to allow as a charge prior to be heard:
 - (a) the name of the accused;
 - (b) the date on which the charge was made;
 - (c) the name of the accuser;
 - (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 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 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 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 clause 12 the Registrar shall as soon as is practicable seal up in a suitable container indorsed with the name of the accused the charge and every document attached thereto.
 - (2) Whenever a trial has been held under this Ordinance 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 indorsed with 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 Registrar shall subject as hereinafter provided 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.

- (5) The Bishop may at any time after the death of an accused direct in writing the destruction of any container and the contents of any container sealed up pursuant to this clause and indorsed 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 clause 41 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 persons permitted access may at his or her own expense take or be provided by the Registrar with copies of (as the case may be) and relevant entry in the Register or any of the contents of the container; but in every other case the Bishop may exercise absolute discretion to give or refuse the necessary permission.

PART X - MISCELLANEOUS

43. A certificate in writing signed by the Registrar that a person is within the meaning of this Ordinance a member of clergy to whom this ordinance applies specifying in the applicable sub-paragraph, shall be prima facie evidence of the matters stated therein.
44. 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 or her 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.
45. 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.
- 46.
- (1) Whenever it is provided by the Ordinance 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 the person 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 the person on the day on which he would have received it in the ordinary course of registered or certified 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 time date or place of posting. When an accused is completely upon trial, the Bishop-in-Council shall have power to award the accused the whole or part of his or her costs.
47. The Bishop shall have power to suspend a member of clergy to whom this ordinance applies from the duties of his or her office where it appears to the Bishop that such suspension is for the good of the Diocese or of any Parish or organisation within the Diocese, provided that:
- (a) Except in cases of extreme urgency such suspension shall not be made unless the Bishop has informed the Chancellor and The Registrar of the

intention so to do and has taken into account their counsel on the proposed actions;

- (b) Provision is made for the member so suspended to receive:
 - (i) adequate income and allowances; and
 - (ii) accommodation for himself or herself and his or her family during such suspension.

**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 Grafton (or, as the case may be: being a person in holy orders not licensed by the Bishop of Grafton but resident in the Diocese of Grafton) has committed the offence of (here describe the offence in accordance with the appropriate words in the definition of "offence" in clause 3 (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 addresses 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 of 1966 of the Diocese of Grafton.

5. I do (or: Each of the undersigned does) hereby solemnly and sincerely declare as follows:

A. (if appropriate:) I have been duly appointed by the Bishop of Grafton 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 Grafton (if appropriate, add: and a bona fide parishioner of the parish (name)).

C. (if the offence charged is not 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 Ordinance a member of the Anglican Church of Australia;
3. not a member of any other church;
4. resident within the Diocese of Grafton.

D. I do not make the said charge from any private ill-will towards the said the 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 judgement 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.