

Professional Standards Amendment Act 2019

An Act to amend the *Professional Standards Uniform Act 2016*.

BE IT ENACTED by the Archbishop, the Clergy and the Laity of the Anglican Church of Australia within the Diocese of Melbourne in Victoria duly met in Synod according to law as follows:

Short title

1. This Act may be cited as the **Professional Standards Amendment Act 2019**.
2. In this Act, a reference to the Principal Act is a reference to the **Professional Standards Uniform Act 2016** as amended.

Purpose of this Act

3. The purpose of this Act is to amend the Principal Act.

Commencement

4. This Act comes into operation on the day on which it receives the assent of the Archbishop.

Amendments

Definitions

5. In section 3–
 - (a) **Insert** after the definition of “clearance for ministry” the following–

“clearance for participation” has the meaning in section 67B;
 - (b) **Substitute** for the definition of “Diocesan Bishop-in-Council” the following–

“Diocesan Bishop-in-Council” means for the diocese of Melbourne the Archbishop in Council constituted under the *Archbishop in Council Act 2018 (Melb)* and for other dioceses the Diocesan Bishop acting with the advice and consent of the Diocesan Council;
 - (c) **Insert** after the definition of “harassment” the following–

“Interim Safety Arrangement” means the interim safety arrangement in writing determined by the Director under section 67E;

- (d) **Insert** after the definition of “lay minister”–
- “**matter**” includes a complaint and an application for a clearance under this Act;
- (e) **Insert** after the definition of “ordinance”–
- “**parish**” includes, in connection with a Person of Concern, a congregation and the Cathedral;
- “**Parish Accountability Group**” means the group established under section 67R;
- “**participate in the life of a parish**” means attending public worship in a parish, otherwise participating in activities of a parish, or any of those things;
- (f) **Insert** after the definition of “person in Holy Orders” the following definitions–
- “**Person of Concern**” has the meaning in section 67C;
- “**prescribed Person of Concern**” means a Person of Concern declared to be a prescribed Person of Concern under section 67G;
- (g) Substitute for the definition of “Safety Agreement”–
- “**Safety Agreement**” means an agreement in writing approved by the PSC under section 67M(b);
- (h) After the definition of “Safety Agreement”, **insert**–
- “**Safety Plan**” means a plan in writing determined by the PSC under section 67M(c).
- (i) In the definition of “sexual offence”, **substitute** for–
- an offence as defined in s4(1) of the Judicial Proceedings Reports Act 1958 (Vic)¹ and in relation to a jurisdiction outside Victoria, has the meaning given it by the applicable legislation of that jurisdiction
- the following–
- (a) an offence as defined in s4(1) of the Judicial Proceedings Reports Act 1958 (Vic)² and in

¹ ‘Sexual offence’ is defined to mean an offence under subdivision (8A), (8B), (8C), (8D) or (8E) of Division 1 of Part I of the Crimes Act 1958 (Vic) or under any corresponding previous enactment or an attempt to commit any such offence or an assault with intent to commit any such offence. For a diocese outside Victoria, substitute the relevant legislation of the State in which the diocese is located.

² ‘Sexual offence’ is defined to mean an offence under subdivision (8A), (8B), (8C), (8D) or (8E) of

relation to a jurisdiction outside Victoria, has the meaning given it by the applicable legislation of that jurisdiction; and

- (b) any like offence under the laws of the Commonwealth, another State or Territory or another country;

- (j) **Insert** after the definition of “sexual offence”–

“**sexual offence relating to a child**” means a sexual offence against or involving a child and includes a sexual offence constituted by–

- (a) sexual activity with or in the presence of a child;
- (b) the production or distribution of any form of child pornography;
- (c) administering a website used to deal with child abuse material;
- (d) encouraging use of a website to deal with child abuse material ;
- (e) possessing child abuse material; or
- (f) accessing child abuse material.

Duty to report

- 6. In section 17, **insert** after sub-section (1)–

(1A) If any prescribed Church worker believes on reasonable grounds that a Person of Concern is participating or wishes to participate in the life of a parish and has no reason to believe that the Director is aware of those facts, the prescribed Church worker must as soon as possible report the matter to the Director.

Complaints

- 7. Amend the heading to Chapter 3 to read–

Process for a Complaint of Misconduct against a Church worker or a clearance application

- 8. In section 21, **insert** after sub-section (1)–

(1A) Any person including the Director may make a complaint of misconduct of a person who is a Person of Concern (but not a

Division 1 of Part I of the Crimes Act 1958 (Vic) or under any corresponding previous enactment or an attempt to commit any such offence or an assault with intent to commit any such offence. For a diocese outside Victoria, substitute the relevant legislation of the State in which the diocese is located.

Church worker) to the PSC.

- (1B) To the extent that a complaint is made of misconduct of a person who is a Person of Concern and who is not a Church worker, the provisions of this Act apply as if the complaint was made against a Church worker and are modified insofar as their participation in the life of a parish shall be taken to be a role office or position held by the Person of Concern.

Summary determination by the PSC

9. In the heading to Part 3.2 **insert** after “Summary Determination of a complaint” the words “or Clearance Application” and in the heading to section 27, delete the word “can” and substitute for the words– “with certain complaints” the words – “without referral to the Board”.
10. In section 27(1)–
- (a) **insert** after the words “take no further action” the words “or may take limited action”;
 - (b) **insert** after the word “complaint” whenever appearing, the words – “or other matter”;
 - (c) **substitute** for subparagraph (iii) of paragraph (a)–
 - (iii) the evidence is not of sufficient weight to warrant an investigation or further investigation;
 - (d) **insert** new subparagraph (iv) of paragraph (a)–
 - (iv) the evidence is not of sufficient weight to support a determination of the Board that the alleged conduct occurred³.
11. **Substitute** for section 27(1)(b) the following paragraph (b)–
- (b) whether or not the PSC forms the opinion referred to in paragraphs (a), (b) or (c) of section 69, the complaint or other matter can properly be dealt with by means other than referral to the Board, consistent with the overriding purposes of this Act, such as but not limited to–
 - (i) accepting a written undertaking or taking other limited action with or without any admission or finding;
 - (ii) exercising its functions under Part 4.3;
 - (iii) mediation;

³ Criminal Procedure Act 2009, s141(4)(a) – “to support a conviction for any indictable offence...”

- (iv) conciliation;
 - (v) neutral evaluation and any other alternative resolution of any dispute associated with the complaint or other matter;
12. **Insert** in section 27(1)(d) after the words– “making the complaint” the words– “or raising the matter”.
13. In section 27(2)–
- (a) **Insert** after “In acting under subsection (1)” the words – “without limiting the generality of that subsection”;
 - (b) **insert** the word “counselling” after the word – “training”; and
 - (c) **insert** after the words “mentoring programme” the words– “or by way of changes to any protocol, whether diocesan or under this Act”
14. **Insert** after section 27(3)–
- (4) In this section, “matter” includes any allegation that has been made or issue that has arisen in an application for a clearance under this Act.
15. **Insert** in section 28 after the words– “the respondent” the words – “or applicant”.
16. In section s29(1)–
- (a) in paragraph (a), **delete** the words– “or matter”;
 - (b) **insert** after paragraph (b) new paragraph (c) as follows–
 - (c) may cause to be investigated any allegation or issue arising on an application for a clearance under this Act.
17. In section 30, **substitute** for the word “delegate” the word – “investigator”.
18. In section 31(1), **substitute** for the word “matter” whenever appearing the words – “other matter”.

Suspension

19. In section 37, **substitute** for the whole of paragraph (c) the following–
- (c) that the respondent be required to enter into and comply with an Interim Safety Arrangement or a Safety Plan or Safety Agreement with the Church authority and the Director acting on behalf of the PSC, and that, if the respondent fails to do so, after notice from the Director requiring the respondent to comply–
 - (i) the Diocesan Bishop direct that the minister who has the cure of

souls refuse to admit the respondent to the Holy Communion or the Lord's Supper except in circumstances approved in advance in writing by the Diocesan Bishop; and

- (ii) the Church authority take reasonable steps to prevent the respondent from having entry or access to premises or activities of the Church either generally or in a specified location or circumstances, except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Diocesan Bishop; or

20. **Substitute** in section 44(1) for the words– “offence relating to child pornography” the following words–

a sexual offence relating to a child

21. **Substitute** in section 56(2) for the words– “for a term of 5 years” the words– “for a specified term of years”.

Clearance for service

22. In section 59(1), **substitute** for–

that the Church worker is fit to hold the proposed role office or position for service in the Church

the following–

that the Church worker is fit to hold each specified role office or position (whether specified by class or otherwise) for service in the Church

23. In section 60, **insert** after subsection (2)–

(2A) A Church worker is exempt from having to apply for a clearance for service if they already hold–

- (a) a clearance for service for any class of roles offices or positions that include the one to which the person has been elected or appointed; or
- (b) a clearance for ministry for any role office or position.

24. In section 62, **substitute** for “the proposed role” the words – “each specified role”.

25. In section 64, **substitute** for “the proposed role” the words – “each specified role”.

26. In section 65, **substitute** for “in a particular role” the words – “each specified role”.

27. In section 66(1), **substitute** for–

in force from the date specified in it until the earlier of—

- (a) the specified expiry date being not greater than 5 years; and
- (b) the resignation or retirement of the person from the role office or position,

the following—

in force for the period specified in the clearance being not greater than 5 years from the date of the clearance

- 28. **Substitute** in section 66(2), for the words— “for a term of 5 years” the words— “for a specified term of years”.
- 29. In section 67(1)(a), **delete** the words “for a prescribed role office of position”.

Persons of concern

- 30. After section 67, **insert** new Part 4.3 as follows—

PART 4.3 – CLEARANCE FOR PARTICIPATION

Purpose of the Part

- 67A. The purpose of this Part is to regulate the participation in the life of any parish of a Person of Concern.

Definition of clearance for participation

- 67B. In this Act, unless the context otherwise requires, “**clearance for participation**” means a clearance for participation granted under this Act.⁴

Definition of Person of Concern

- 67C. Unless the context requires otherwise, a Person of Concern is a person whose presence may constitute an unacceptable risk of harm to any person engaged in the activities of the parish as a result of sexual abuse or physical abuse and includes one or more of the following:
 - (a) a person who has pleaded guilty to, has been convicted of, or has admitted to having committed, a sexual offence or other offence against the person;
 - (b) a person who is currently charged with a sexual offence or other offence against the person;
 - (c) a person who has been disciplined or had other action taken against them under a disciplinary or professional standards process of the Church or another organization because of sexual

⁴ Other terms used in this Part and elsewhere are defined in s3(1).

abuse or physical abuse, or who has been refused ordination, employment or appointment in the Church or another organization because of an adverse risk assessment arising from sexual abuse or physical abuse;

- (d) a person who, as a result of sexual abuse or physical abuse, has received an adverse risk assessment from a professional with appropriate qualifications and experience in accordance with the requirements of another church or a statutory authority;
- (e) a person who has received or is receiving treatment for disordered sexual behaviour;
- (f) any other person within a class of persons prescribed from time to time by the Diocesan Bishop in Council.

Duties of the Director

67D. If the Director receives a report under section 17(2) or otherwise becomes aware that a Person of Concern is participating or wishes to participate in the life of a parish, the Director must –

- (a) determine in their preliminary assessment–
 - (i) whether the person is a Person of Concern;
 - (ii) whether the person may constitute an unacceptable risk of harm to any person engaged in the activities of a parish if, pending any process of assessment, the Person of Concern participates or continues to participate in the life of the parish; and
 - (iii) whether the PSC should by resolution declare the person a prescribed Person of Concern and by force of section 67H require the person to apply for a clearance for participation in the life of the parish and a National Police Check;
- (b) report on that preliminary assessment to the PSC; and
- (c) otherwise act in accordance with any protocol made under this Act.

Director to determine Interim Safety Arrangement

- 67E. (1) After consultation with the vicar and churchwardens of the parish, the Director may determine an Interim Safety Arrangement pending determination by the PSC as to whether the Person of Concern may participate in the life of the parish.
- (2) An Interim Safety Arrangement must be in writing and specify either—
- (a) the interim conditions for participation of the Person of Concern in the life of the parish; or
- (b) that the Person of Concern must abstain from that participation.

PSC to consider the matter

- 67F. The PSC must consider the report of the Director under section 67D and any submission from the Person of Concern given within the time allowed by the Director.

PSC may declare a prescribed Person of Concern

- 67G. The PSC may in its absolute discretion by resolution declare that a Person of Concern is a prescribed Person of Concern for the purposes of this Act.

A prescribed Person of Concern must make application

- 67H. (1) A person declared to be a prescribed Person of Concern under section 67G must—
- (a) apply to the Office of Professional Standards for a clearance for participation; and
- (b) apply for a national Police Check at the expense of the Diocesan Corporation—
- no later than 14 days following written notice from the Director which specifies the requirement to make those applications and which has been sent to the person.
- (2) Any application for a clearance for participation must be in or to the effect of the prescribed form.

How application is to be dealt with

- 67I. The Director, the PSC and the Office of Professional Standards must deal with an application under s 67H in accordance with this Act and any applicable protocol

Condition of eligibility for clearance for participation

67J. It shall be a condition of eligibility for the grant of a clearance for participation that the Person of Concern does not constitute an unacceptable risk of harm to any person engaged in the activities of the parish whether unconditionally or subject to a satisfactory Safety Plan or Safety Agreement or other condition or restriction.

Determination by the PSC in favour of the Person of Concern

67K. If to the best of its knowledge information or belief, the PSC is of the opinion that the applicant does not constitute an unacceptable risk of harm to any person engaged in the activities of the parish, the PSC must determine accordingly and the Office of Professional Standards must grant to the applicant a clearance for participation.

Determination by the PSC adverse to the Person of Concern

67L. If the PSC is of the opinion that the applicant –

- (a) does constitute an unacceptable risk of harm to a person engaged in the activities of the parish; or
- (b) that without a satisfactory Safety Plan or Safety Agreement or other condition or restriction, the applicant would constitute an unacceptable risk of harm to any person engaged in the activities of the parish—

the PSC must determine that the application for a clearance for participation—

- (c) be refused, or
- (d) be granted subject to a satisfactory Safety Plan or Safety Agreement or other condition or restriction

and the Office of Professional Standards must refuse or grant the clearance for participation accordingly.

Powers of the PSC

67M. The PSC may on any application for a clearance for participation or in relation to any complaint against a Person of Concern—

- (a) determine whether a Person of Concern may participate in the life of the parish or any other parish and if so on what if any condition or restriction in a Safety Plan or Safety Agreement or otherwise;
- (b) as a condition of granting a clearance for participation, approve a Safety Agreement in relation to the Person of Concern between that person, a relevant Church authority and the Director on behalf of the PSC

regulating how that person may participate in the life of the parish and for that purpose have entry and access to the premises and activities of the parish;

- (c) as a condition of granting a clearance for participation, approve a Safety Plan only where the Person of Concern has an intellectual or other disability that prevents the person from giving informed consent to a Safety Agreement;
- (d) determine whether a Safety Plan or a Safety Agreement should be varied or terminated and if so on what conditions;
- (e) determine whether the operation and arrangements of any Parish Accountability Group should be varied and if so how;
- (f) exercise its powers under section 37 in relation to the Person of Concern.

Terms of Safety Agreement or Safety Plan

67N. A Safety Agreement or a Safety Plan must state at least–

- (a) any condition or restriction on participation by the Person of Concern in the life of the parish that the PSC may determine ;
- (b) any additional conditions, such as an obligation to undertake child protection training, as may be seen fit;
- (c) a restriction on participating in the life of any parish other than the specified parish without a clearance for participation;
- (d) the consequences of any breach of the Safety Agreement or Safety Plan by the Person of Concern;
- (e) what information should be released to whom; and
- (f) a process for advising a new vicar and new churchwardens in the parish of the existence and terms of the Safety Agreement or Safety Plan.

PSC may refer to the Board

67O. The PSC may on any application for a clearance for participation or in relation to any complaint against a Person of Concern determine to refer the application or complaint to the Board under section 69 on the happening of any of the following events–

- (a) if the PSC has made a determination under paragraph (a)

or (b) or (c) of section 67M and the Person of Concern has by written notice to the Director objected to the same within 21 days from the date of the determination;

- (b) if a Person of Concern has breached a condition of an Interim Safety Arrangement or a Safety Plan or a Safety Agreement or any variation of the same and has failed to remedy the same within 7 days from written notice from the Director notifying the breach;
- (c) if a Person of Concern is prohibited by the provisions of section 67Q from participating or continuing to participate in the life of a parish or any other parish and in contravention of that prohibition participates or continues to participate in the life of the parish or any other parish;
- (d) if the Church authority has breached a condition of an Interim Safety Arrangement or a Safety Agreement or Safety Plan or any variation of the same and has failed to remedy the same within 7 days from written notice from the Director notifying the breach;
- (e) the PSC determines for other good reason, the complaint or matter should be referred to the Board.

Duration of clearance for participation

- 67P. (1) A clearance for participation granted under this Act is in force from the date specified in it until the earlier of—
- (a) the specified expiry date being not greater than 5 years; and
 - (b) the cessation of their participation in the life of the parish—
- unless it is sooner suspended or cancelled by the Office of Professional Standards pursuant to a direction of the Board or the Review Board.
- (2) If an application for the renewal of a clearance for participation granted for a specified term of years has been lodged within 6 months⁵ prior to the expiration of that term but has not been finally determined before the expiration of that period, the clearance for participation remains in force, unless suspended or cancelled sooner, until the application has been finally determined.

⁵ Cf s19, *Working with Children Act 2005*.

- (3) For the purposes of subsection (2), an application is finally determined—
 - (a) by the renewal of the clearance for participation; or
 - (b) by the exhaustion of all rights of review in relation to a decision to refuse to renew the clearance for participation.
- (4) The Director, the PSC and the Office of Professional Standards must and is hereby empowered to give effect to any determination, recommendation or direction of the Board or the Review Board in relation to a clearance for participation.

Prohibition on participation without a clearance

- 67Q.
- (1) If a prescribed Person of Concern—
 - (a) has failed to apply for a clearance for participation in relation to a parish and for a national Police Check in compliance with section 67H and that default continues for more than 7 days after written notice of that default from the Director requiring the person to remedy the same; or
 - (b) has been refused a clearance for participation by the PSC and has not by written notice to the Director objected to the same within 21 days from the date of the determination; or
 - (c) has been refused a clearance for participation by the PSC on the direction of the Board or on review, the Review Board; or
 - (d) has had his or her clearance for participation cancelled by the PSC on the direction of the Board or on review, the Review Boardthen—
 - (e) the prescribed Person of Concern must not participate or continue to participate in the life of that parish or any other parish except to be admitted to the Holy Communion or the Lord’s Supper in circumstances approved in advance in writing by the Diocesan Bishop.⁶
 - (2) A prescribed Person of Concern who has been granted a clearance for participation subject to any condition or restriction specified in the clearance for participation or otherwise must comply with that condition or restriction.
 - (3) A wilful or reckless failure to comply with a requirement of

⁶ *Holy Communion Canon 2001*

subsection (1) or (2) renders the prescribed Person of Concern liable to be dealt with for misconduct under this Act as if a Church worker.

Parish Accountability Group

- 67R. (1) The vicar and churchwardens of the parish may appoint members of the Church or other persons with appropriate qualifications and experience to a Parish Accountability Group after consultation with the Person of Concern and the Director.
- (2) The functions of the Parish Accountability Group are to—
- (a) monitor compliance with any obligations under the Safety Agreement or Safety Plan on the part of the Person of Concern or other person obligated;
 - (b) hold the Person of Concern accountable for the performance of their obligations under the same;
 - (c) support and help the Person of Concern manage their personal risks and behaviour to the extent necessary or desirable according to their level of risk, their offending history and the information gathered.
- (3) It is not a function of the Parish Accountability Group to provide pastoral support to the Person of Concern.
- (4) A member of the Parish Accountability Group must notify as soon as practicable the vicar or a churchwarden if they know or reasonably suspect that the Person of Concern has breached a condition of the Safety Agreement or Safety Plan.

Duties of the Church authority

- 67S. (1) If a Church authority in relation to a prescribed Person of Concern in any parish has received written notice from the Director of any of the matters in paragraphs (a), (b), (c) and (d) of section 67Q, the Church authority must subject to subsection (2) take all reasonable steps to prevent the prescribed Person of Concern from having entry or access to premises or activities of the Church either generally or in a specified location or circumstances, except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Diocesan Bishop.

- (2) The Church authority who is in Holy Orders may admit the Person of Concern to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Diocesan Bishop.
- (3) The Church authority must comply with any requirement under section 119 in relation to any recommendation of the Board or if applicable the Review Board about a Person of Concern.
- (4) A wilful or reckless failure to comply with a requirement of this section renders the Church authority liable to be dealt with for misconduct under this Act.
- (5) Subsection (4) does not apply to the Diocesan Bishop.⁷

Referral to the Board

31. In section 69 –

- (a) **insert** before the word– “matter” wherever appearing, the word– “other”.
- (aa) in subparagraph (i) of paragraph (a), **insert** after the words “to hold” the words – “now or in the future”.
- (b) in subparagraph (ii) of paragraph (a), **insert** after the words “any function” the words – “now or in the future”.
- (c) in paragraph (b), in the last line after “condition or restriction”, **insert** – “; or”
- (d) after paragraph (b), **insert** new paragraph (c) as follows–
- (c) in connection with an application by a Person of Concern for a clearance for participation or a complaint against such a person, the Person of Concern constitutes an unacceptable risk of harm to any person and any of the events in paragraph (e) of section 67G have occurred, unless the PSC has determined under section 27 that the matter can be dealt with other than by referral to the Board
- (e) in the last paragraph, **insert** after – “the PSC must” the words – “subject to section 27”.

Procedure for referral

⁷ The Diocesan Bishop is not within the definition of a Church worker – see the definition of Church worker in schedule 1.

32. In section 71(1)–
- (a) **insert** the word “other” before the word– “matter”;
 - (b) in paragraph (b), **delete** the words – “investigation and” and insert after the word “opinion” the words– “under section 69”.
33. In section 73, **insert** the word “other” before the word– “matter”.

Resignation from office

34. In the heading to section 74, **insert** after “If Church worker resigns from” the words “or fails to take up”.
35. In section 74–
- (a) **Substitute** for the words– “If after a complaint or matter is referred to the Board” the words–
“If before a complaint or other matter is determined”;
 - (b) **Insert** after the words “the respondent resigns from” the words–
“or fails to take up”;
 - (c) **Insert** after the words “by which the complaint” the words–
“or other matter”;
 - (d) **Insert** after the words “notwithstanding that resignation” the words–
“or failure”.
 - (e) **Delete** in the second last line the words “continue to”.
36. In the heading to section 76, **insert** after the word– “Enquiry” the words – “on a complaint”.

Recommendations of the Board

37. In section 78(1), **substitute** for paragraph (g) the following–
- (g) that the respondent as a Person of Concern be required to enter into and comply with a Safety Plan or Safety Agreement with the Church authority and the Director acting on behalf of the PSC, and that, if the respondent fails to do so, after notice from the Director requiring the respondent to comply–
 - (i) the Diocesan Bishop direct that the minister who has the cure of souls refuse to admit the respondent to the Holy Communion or the Lord’s Supper except in circumstances approved in advance in writing by the Diocesan Bishop; and
 - (ii) the Church authority take reasonable steps to prevent the respondent from having entry or access to premises or

activities of the Church either generally or in a specified location or circumstances, except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Diocesan Bishop;

Mandatory recommendation for deposition from Holy Orders

38. In section 78, **insert** new subsection (3) as follows–

- (3) Where the Board is satisfied to the required standard of proof that the respondent has been convicted of a sexual offence relating to a child committed when a member of the clergy, the Board must recommend that the respondent be deposed from the exercise of Holy Orders.

Dismissal or no further action

39. In the heading to section 79, insert after “Dismissal or no further action” the words “ or limited action”.

40. In section 79(1)–

- (a) **Insert** after the words “If the Board is not satisfied” the words–
to the required standard of proof;
- (b) **Insert** before the words “that the complaint is false” the words–
if the Board is satisfied;
- (c) **Substitute** for –“dismiss the complaint.” the following–

may–

- (a) dismiss the complaint or matter; or
- (b) take no further action on the complaint or matter; or
- (c) take no further action other than to recommend to the Church authority any steps that might reduce or eliminate the risk of misconduct either generally by Church workers or in relation to the respondent by way of an educational, training, counselling or mentoring programme or by way of changes to any protocol, whether diocesan or under this Act.

41. In section 79, **insert** after sub-section (1)–

- (1A) A recommendation pursuant to paragraph (c) of the preceding subsection is advisory only and not binding on the Church authority.

42. In section 79(2)–

- (a) **Insert** after the words “If the Board is satisfied” the words–

to the required standard of proof;

- (b) **Insert** after the words “in relation to the complaint” the words—
or take no further action other than to make a recommendation referred to in subsection (1)(c) of this section.

Standard of Proof

43. In the heading to section 84, **substitute** “Standard” for “Level”.

44. In section 93—

- (a) **insert** new subsection as follows—

(2) Where the Review Board is satisfied to the required standard of proof that the respondent has been convicted of a sexual offence relating to a child committed when a member of the clergy, the Review Board must recommend that the respondent be deposed from the exercise of Holy Orders.

- (b) **re-number** the original section 93 as subsection 93(1).

Power of Board to inform itself

45. In section 98(1)(c), **insert** after the word “tribunal” where it twice appears the words “or Royal Commission”.

Preliminary conference

46. **Substitute** for section 101 the following—

101. (1) In this section and section 102, a reference to a “presidential member” means the President or Deputy President or a Senior Member of the Board or Review Board as the case may be.
- (2) No later than 14 days after a reference of a complaint or other matter or an application for review (as the case may be) has been received by the secretary to the board, the board must —
- (a) invite each of the parties to propose a provisional timetable for the complaint or matter or application for review;
- (b) hold a preliminary conference with the parties in person or by telephone or other means;
- (c) by directions set a procedural timetable for the matter.
- (3) The board may at any time and from time to time extend or vary the procedural timetable.
- (4) For the purpose of this and the following section, subject to

subsection (5), the board may be constituted by a presidential member whether or not that office holder alone or with others later constitutes the board determining the complaint or other matter.

- (5) Where the board to determine the complaint or other matter has been constituted, any directions for the purpose of this section must be given by the presiding member of the board as so constituted if that office holder is available.
- (6) If that office holder is unavailable, directions may be given by a presidential member.

47. In section 102, **delete** the words—

and for that purpose the board when constituted by more than one person may be constituted by the President or Deputy President or Senior Member alone

Who is the Church authority?

48. **Substitute** for paragraph (k) of section 173—

- (k) in relation to a recommendation concerning a Person of Concern and their entry or access to premises or activities (whether or not also a Church worker)—
 - (i) in a parish, the vicar and the churchwardens;
 - (ii) in the Cathedral, the Dean and any duly authorised representatives of the Chapter appointed for this purpose;
 - (iii) otherwise the Diocesan Bishop and any duly authorised representatives of the Diocesan Bishop in Council appointed for this purpose.

PSC, Director and Executive Director to report

49. In the heading to section 180, substituting the existing heading the words “PSC, Director and Executive Director to report”.

50. In section 180—

- (a) in subsection (2), **insert** before the word “matter” the words “complaint or other”;
- (b) **insert** new subsection after subsection (2) as follows—
 - (3) The Director or Executive Director must, in respect of every complaint or other matter with which the PSC is dealing that concerns a relevant Church authority, report either orally or in writing to that relevant Church authority with such frequency

and as fully as the Church authority shall reasonably require.

Audit

51. In the heading to section 184, **substitute** for “BIENNIAL AUDIT” the words “TRIENNIAL AUDIT”
52. In section 184(1)–
- (a) **Substitute** for the words “Every two years” the words “Every three years”;
 - (b) At the end of the subsection, **insert** after the words “and any protocol” the words–
 - and the Child Safe Standards published by the State Government by–
 - (a) the Scheme Directors;
 - (b) the Office of Professional Standards;
 - (c) the Diocesan Bishop in Council;
 - (d) the Diocesan Corporation; and
 - (e) a Church authority.
53. After subsection 184(1) **insert**–
- (1A) A copy of the audit report shall be provided to each of the bodies referred to in paragraphs (a) to (d) and to the Diocesan Bishop.
54. In subsection (2), **substitute** for the words “the Scheme Corporation in general meeting” the words “the Diocesan Bishop in Council”;
55. In subsection (3), **insert** in the first line after the words “Office of Professional Standards” the following–
- , the Diocese and the Diocesan Corporation
56. After sub-section (3) **insert**–
- (4) The person appointed to conduct the audit may also act as the auditor appointed by the General Secretary of General Synod to conduct an audit in respect of the Diocese under the *Safe Ministry to Children Canon 2017*.

TRANSITIONAL PROVISIONS

Interpretation

57. In this section and the following—

“**commencement day**” means the day on which this Act comes into operation;

“**Director of Professional Standards**” means the director of professional standards of the Diocese as constituted before the commencement day;

“**Professional Standards Committee**” means the professional standards committee of the Diocese as constituted before the commencement day;

Complaints already made

58. (1) This section applies to a complaint within the meaning of that expression in the Principal Act if –
- (a) the complaint was made before the commencement day; and
 - (b) the complaint has not been the subject of a reference by the Professional Standards Committee to the Professional Standards Board before that day.
- (2) On and after the commencement day the complaint is to be dealt with in accordance with the Principal Act as amended by this Act.

Applications for clearance already made and before the PSC

59. (1) This section applies to an application for a clearance for ministry or service under the Principal Act if –
- (a) the application was made before the commencement day; and
 - (b) the application has not been the subject of a reference by the Professional Standards Committee to the Professional Standards Board before that day.
- (2) On and after the commencement day the application is to be dealt with in accordance with the Principal Act as amended by this Act.

Repeal

60. This Act is repealed on the anniversary of the day on which it came into force.

Note: The Archbishop assented to the Bill on 19 October 2019.