

PRIMATE CANON 1985

Canon 15, 1985 as amended by
Canon 2, 1992
Canon 7, 2001
Canon 08, 2004
Canon 01, 2007
Canon 10, 2014

A canon to provide for the election and tenure of office of the Primate.

The General Synod prescribes as follows:

Preliminary

- 1.¹ This canon may be cited as the "Primate Canon 1985".
- 2.² In this canon, unless the context otherwise requires:-

"**Acting Primate**" means the metropolitan or bishop by whom the authorities powers rights and duties of the Primate are, under Section 10 of the Constitution, being for the time being exercised;

"**Board**" means the Board of Electors constituted under this canon;

"**complaint**" means a complaint against an eligible bishop alleging a breach of faith, ritual, ceremonial or discipline or alleging an offence as may be prescribed by Canon;

"**Director**" means the Director of the Episcopal Standards Commission appointed under Part 3 of the Special Tribunal Canon 2007 or holding office because of Part 9 of that Canon;

"**eligible bishop**" means a diocesan bishop who is eligible for election to the office of Primate in accordance with the provisions of this Canon;

"**House of Bishops**" has the meaning attributed to it by section 16 of the Constitution;

"**information**" means information of whatever nature and from whatever source relating to the alleged misconduct or omission of an eligible bishop wherever and whenever occurring;

¹ Amended by Canon 8, 2004.

² Amended by addition of definitions by Canon 01, 2007.

"**member of the clergy**" means a person who is or who is eligible to be a member of the House of Clergy;

"**member of the laity**" means a person who is or who is eligible to be a member of the House of Laity;

"**Month**" means calendar month;

"**National Register**" means the National Register kept pursuant to the National Register Canon 2007.

"**Primate**" does not include the Acting Primate;

- 3.³ (1) A summons issued pursuant to this canon shall be in writing, bear the date upon which it is issued and be signed by the person authorised by or under this canon to issue the summons or by a person authorised by him in writing so to do and shall be deemed to be duly served on a member of the Board if a copy thereof is -
- (a) given to the member personally; or
 - (b) (i) left at, or
 - (ii) sent by post in a properly prepaid wrapper or envelope addressed to the member at,

the address of the member last known to the person who signs the summons.
- (2) A summons of which a copy is so left shall be deemed to be served on the member at whose address it is left on the day following the day upon which it is so left.
- (3) A summons of which a copy is so sent by post shall be deemed to be served on the member to whom it is addressed on the seventh day following the day upon which it is sent.
- (4) The accidental omission to serve a summons under this canon upon, or the non-receipt of such a summons by, any person and the accidental service of such a summons outside the time limits prescribed by this canon shall not invalidate the meeting to which the summons relates or the proceedings at the meeting.

The Board of Electors

4.⁴ There shall be a Board of Electors which shall consist of:-

³ Sub-section (1)(b) amended by Canon 01, 2007.

⁴ Sub-sections (a), (b) and (c) amended by Canon 01, 2007 (Sub-sections (b) and (c) were previously amended by Canon 7, 2001).

- (a) all members of the House of Bishops,
 - (b) twelve members of the clergy, and
 - (c) twelve members of the laity.
- 5.⁵ (1) At each ordinary session of the Synod -
- (a) the House of Clergy shall elect sixteen members of the clergy to a Panel of Electors, and
 - (b) the House of Laity shall elect sixteen members of the laity to a Panel of Electors.
- (2) Where the number of members of the clergy or of the laity nominated for election to the Panel does not exceed twelve the President shall declare the persons so nominated duly elected.
- (3) Where the number of members of the clergy or members of the laity nominated for election exceeds twelve there shall be a ballot in the appropriate house in which each member of the House of Clergy or House of Laity who votes shall mark a cross opposite the name of each candidate for whom the member desires to vote provided that a voter shall vote for not more than twelve candidates.
- (4) In the case of each house the candidate for whom the greatest number of votes is cast shall be the first elected, the candidate for whom the second greatest number of votes is cast shall be the second elected, and so on. In the case of two or more candidates receiving an equality of votes the order in which such candidates shall be deemed to be elected shall be determined by lot.
- (5) Subject to this section each election for members of the Panel of Electors shall be conducted in accordance with the rules for the conduct of elections ordered to be made by the General Synod.
- (6) Upon the occurrence of any vacancy in the membership of the Panel of Electors however caused the Standing Committee of General Synod shall elect a member of the clergy or member of the laity as the case requires to fill that vacancy.
6. Subject to Section 8, the first twelve clerical candidates elected to the Panel of Electors and the first twelve lay candidates elected to the Panel of Electors shall be members of the Board of Electors.
- 7.⁶ A person who is an elected member of the Board or of the Panel of Electors shall cease to hold office if -

⁵ Sub-sections (1), (2), (3) and (6) amended by Canon 01, 2007.

- (a) the person ceases to be a member of the clergy or member of the laity; of which the person was at the time of election,
 - (b) the person resigns by writing under hand received by the General Secretary of the Synod,
 - (c) the person while a member of the Board or of the Panel is convicted of any offence punishable by imprisonment for not less than twelve months; or
 - (d) in the opinion of the Primate or of the Acting Primate the person has become incapable of acting as a member of the Board by reason of the person's physical or mental condition and the Primate or Acting Primate gives to the General Secretary written notice of that opinion.
8. (1) Upon the occurrence of any vacancy in the office of an elected clerical or lay member of the Board before the Board has met the General Secretary shall ascertain so far as is necessary, and in the order of their election, from each clerical or lay member (as the case requires) of the Panel of Electors who is not a member of the Board whether that member is ready willing and able to become a member of the Board and, if a meeting of the Board has been convened, to attend that meeting. If that member of the Panel of Electors is ready willing and able as aforesaid the member shall forthwith become a member of the Board and shall where a meeting of the Board has been convened be forthwith summoned by the General Secretary to that meeting and the General Secretary shall report the circumstances and his action to the Primate or Acting Primate.
- (2) If, following the procedure prescribed in sub-section (1), a vacancy continues to exist in the seat of an elected member of the Board and the Board has not then met that vacancy shall be filled by a duly qualified person elected by the Standing Committee of General Synod.
- (3) For the purposes of this section a vacancy in the seat of an elected member of the Board shall be deemed to have occurred if an elected member informs the General Secretary, after the member has been summoned to a meeting of the Board, that the member will be unable to attend the meeting and the member shall thereupon be deemed to have been elected to the Panel of Electors at the head of those who, following the filling of that vacancy, are members of the Panel of Electors but are not members of the Board.

Eligibility and Term of Office

- 8A.⁷ (1) Unless subsection (2) applies, the term of office of a person elected to the office of Primate is six years,

⁶ Sub-section (a) amended by Canon 01, 2007.

⁷ Previous Section 9 deleted, new heading and Sections 8A and 9 added by Canon 01, 2007.

- (2) If a person who holds, or who was the last person to hold, the office of Primate is again elected to hold that office, the term of office is three years,
- (3) A person who has held office after election for two successive terms may not again hold the office of Primate until that person's successor has ceased to hold office.
- (4) A person ceases to be an eligible bishop upon attaining the age of 70 years.

9.⁸ A person who holds the office of Primate shall cease to hold that office upon –

- (a) termination of the period for which the person has been elected;
- (b) resigning by notice in writing given to the Senior Metropolitan (other than the Primate) at the time in Australia, seniority being determined by date of consecration;
- (c) the Synod by resolution declaring the office to be vacant;
- (d) ceasing to be an eligible bishop;
- (e) attaining the age of 70 years."

Procedure on Vacancy⁹

10. (1) When the office of Primate is due to become vacant on a date that is known in advance the Primate shall cause to be convened by summons a meeting of the Board to be held not less than 3 months but not more than 9 months before the office is due to become vacant.
- (2) Where it is not possible to convene by summons a meeting of the Board within the time specified in subsection (1) or where a vacancy in the office of Primate occurs without notice the Primate or, if the office has become vacant, the Acting Primate shall cause to be convened a meeting of the Board to be held as soon as possible.
- (3) The summons shall be served within fourteen days of the issue of the summons upon all persons who at the time of issue of the summons are members of the Board and on the Director and shall specify the date, time and place at which the meeting will take place.
- (4) The date specified in the summons shall be a date not earlier than one month after the summons is served or is deemed to have been served on

⁸ Previous Section 9 deleted, new heading and Sections 8A and 9 added by Canon 01, 2007.

⁹ Heading and Section 10 replaced by Canon 01, 2007. A person elected to the office of Primate in accordance with the procedure in section 10(1) holds office only from the date the office becomes vacant and until that time is Primate Elect. (*See Primate Canon Amendment Canon 2007, section 12(5)*)

all persons who are at the time of issue of the summons members of the Board.

- (5) If a person becomes a member of the Board after the issue of a summons in accordance with this section the Primate or Acting Primate as the case may be shall thereupon issue and cause to be served upon that person as soon as is practicable a summons to attend the relevant meeting.
- (6) A summons may be issued and served under this Canon and the Board may elect an eligible bishop to the office of Primate notwithstanding that a see is vacant.
- (7) If in the opinion of the Standing Committee of General Synod the Primate or the Acting Primate as the case may be fails or omits to issue a summons or to cause a summons to be served in accordance with this section the Standing Committee may direct the General Secretary of the Synod to issue and to cause to be served a summons for the Board to meet at such dates, times and places as the Standing Committee having regard to the requirements of this section deems appropriate.

Procedure for Election

- 11.¹⁰ (1) The Board, when summonsed pursuant to section 10, shall meet for the purpose of electing an eligible bishop to be Primate.
 - (2) Subject to this Canon the Board may -
 - (a) adjourn and otherwise regulate its procedures and meeting as it sees fit, and
 - (b) act notwithstanding any vacancy in its membership.
 - (3) The Board shall elect a chair from among the members of the clergy or the members of the laity.
- 12.¹¹ A quorum of the Board shall be -
 - (a) two thirds of the members of the House of Bishops;
 - (b) eight members of the clergy; and
 - (c) eight members of the laity.
- 13.¹² If within a period of eight months after the date of the first meeting of the Board no eligible bishop be elected Primate or if at any time within that period the General Secretary receive notice from the chairman of the Board that the Board has resolved that it is unable to elect a Primate the General Secretary shall give notice to that effect to the Acting Primate and the Acting Primate, within three

¹⁰ Section 11 replaced by Canon 01, 2007.

¹¹ Section 12 replaced by Canon 01, 2007.

¹² Section 13 amended by Canon 01, 2007.

months of receipt of that notice, shall convene a special session of the Synod for the purpose of electing a Primate to be held at such place and at such time as the Acting Primate shall determine, provided that if when the Acting Primate receives that notice either a summons has been issued pursuant to Section 23 of the Constitution for the convening of members of the Synod for an ordinary session of Synod or in the judgement of the Acting Primate such a summons will be issued in the ordinary course within the next twelve months, the next ordinary session of Synod shall be deemed for the purposes of this canon to be a special session convened pursuant to this section.

- 14.¹³ (1) At any election of a Primate under this canon the following provisions shall apply -
- (a) In all ballots voting shall be by orders and each member of an order present may cast one vote for one eligible bishop no member shall have a casting vote.
 - (b) In the first ballot all eligible bishops shall be candidates;
 - (c) If on the first ballot an eligible bishop is elected Primate and the person elected forthwith declares unwillingness to accept the office, the first ballot shall be repeated but the person shall not be a candidate.
 - (d) If on the first ballot an eligible bishop is elected Primate and does not forthwith declare unwillingness to accept the office:
 - (i) The General Secretary must forthwith disclose to the members of the Board the content (if any) of the National Register insofar as it concerns the eligible bishop so elected, and the Episcopal Standards Director must disclose to members of the Board the substance of any complaint or information relating to the eligible bishop as elected insofar as it has been communicated to the eligible bishop;
 - (ii) If there is nothing to disclose under sub-paragraph (i) and the eligible bishop signifies acceptance of the office in accordance with subsection (2), that bishop shall become Primate;
 - (iii) If something is disclosed under sub-paragraph (i), and the eligible bishop has been given the opportunity to respond to that disclosure, the name of that eligible bishop so elected shall be submitted to a further ballot;
 - (iv) If the eligible bishop on the further ballot receives the votes of the requisite majority and signifies acceptance of the

¹³ Section 14 (1) amended by deleting paragraphs (b) to (g) and inserting new paragraphs (b) to (j) by Canon 01, 2007.

office in accordance with subsection (2), that bishop shall become Primate, but otherwise the process will proceed to a second ballot.

- (e) If -
 - (i) on the first ballot no eligible bishop receives the votes of the requisite majority; or
 - (ii) the process must proceed to a second ballot under paragraph (d)(iv),a second ballot must be held;
- (f) Subject to paragraph (g), in the second ballot all eligible bishops shall be candidates except -
 - (i) the eligible bishop or bishops (if any) who received no votes in the first ballot;
 - (ii) if paragraph (d)(iv) has applied, the eligible bishop within the ambit of that paragraph who has not become Primate; and
 - (iii) any eligible bishop who has notified the chair of the Board that he does not desire to be a candidate in the ballot.
- (g) Before the second ballot is held-
 - (i) the General Secretary must forthwith disclose to the members of the Board the content of the National Register insofar as it concerns each of the candidates for that ballot, and the Episcopal Standards Director must disclose to members of the Board the substance of any complaint or information relating to any candidate for that ballot insofar as it has been communicated to that candidate; and
 - (ii) if something is disclosed under sub-paragraph (i), and the eligible bishop has been given the opportunity to respond to that disclosure, the name of that eligible bishop shall be submitted to the second ballot;
- (h) Unless paragraph (j) applies, if no eligible bishop receives the votes of the requisite majority in the second ballot, a further ballot or ballots shall be held until an eligible bishop receives the votes of the requisite majority or no eligible bishop remains a candidate, in each such further ballot the following shall not be candidates -
 - (i) every eligible bishop who received no votes in the immediately preceding ballot;

- (ii) the eligible bishop or bishops who received the fewest votes in the aggregate in the immediately preceding ballot; and
 - (iii) any eligible bishop who, immediately before that ballot, gives to the chair of the Board notice that he does not desire to be a candidate.
- (i) Unless paragraph (j) applies, if no eligible bishop receives the votes of the requisite majority, pursuant to paragraph (h), the procedure in paragraphs (b) to (g) shall be repeated at such intervals as the Board by a majority of all members present determines until an eligible bishop receives the votes of the requisite majority.
 - (j) If the list of candidates is reduced to two and if three ballots are held on that reduced list without a bishop receiving the votes of a requisite majority, the Board may, by a simple majority of the members present and voting, decide to revert to a ballot at which all diocesan bishops are candidates and this section then applies as if that ballot were a first ballot under this section.
- (2)¹⁴ Subject to this section an eligible bishop who receives the votes of the requisite majority shall become Primate upon his signifying in writing to the General Secretary his acceptance of the office within 14 days after receiving the votes of the requisite majority.
- (2A)¹⁵ If a bishop does not signify acceptance within 14 days after receiving the votes of the requisite majority, those votes are of no effect and the Board shall revert to a ballot at which all eligible bishops are candidates and this section then applies as if that ballot were a first ballot under this section.
- (2B)¹⁶ A person elected to the office of Primate in accordance with the procedure in section 10(1) holds office only from the date the office becomes vacant and until that time is Primate Elect.
- (3) For the purposes of this section
- (a) the requisite majority is a majority in each of the three orders of those present and voting;
 - (b) where an election is by the Board each of the following constitutes an "order" -
 - (i) the members of the House of Bishops;

¹⁴ Amended by Canon 7, 2001, and further amended by Canon 01, 2007.

¹⁵ Section 14 (2A) added by Canon 7, 2001, and subsequently amended by Canon 01, 2007.

¹⁶ Inserted by Canon 10, 2014.

- (ii) the members of the Board who are members of the clergy;
 - (iii) the members of the Board who are members of the laity;
 - (c) where an election is by Synod each house of Synod constitutes an "order";
 - (d) where an election is by Synod any reference to the Board is a reference to the Synod.
15. Notwithstanding anything in section 14, General Synod may at a special session convened pursuant to section 13 resolve at any time by houses that a new Board of Electors shall be constituted and thereupon the special sessions shall be deemed for the purposes of this canon to be an ordinary session and the provisions of this canon shall apply accordingly save that the Acting Primate shall convene the Board to meet as soon as is practicable and may fix the date, time and place of the first meeting of the Board by announcement made in Synod and such an announcement shall be deemed to be a summons duly served upon the members of the Board.

Primate's Chancellor¹⁷

16. (1) The Primate may at any time and from time to time appoint a Primate's Chancellor.
- (2) The Primate's Chancellor is the principal confidential adviser to the Primate in legal and related matters.
- (3) Subject to the Primate's Chancellor's overriding duty to the Primate, the Primate's Chancellor may provide advice to the General Synod and other agencies of this Church.
- (4) If the Primate's Chancellor is not a member of General Synod he or she shall be entitled to attend each session of General Synod at the expense of the General Synod with the right to speak at the invitation of the Primate but not to vote.
- (5) If the Primate's Chancellor is not a member of the Standing Committee of General Synod he or she shall be entitled, at the invitation of the Primate, to attend any meeting of the Standing Committee at the expense of the General Synod with the right to speak at the invitation of the Primate but not to vote.
17. (1) A person to be appointed the Primate's Chancellor shall hold the qualifications specified in section 3 of the Chancellors Canon 2001 and shall have, in the opinion of the Primate, a sound working knowledge of the law and polity of the Anglican Church of Australia.

¹⁷ Section 16 repealed and new Sections 16, 17, 18, 19 & 20 inserted by Canon 01, 2007.

- (2) A Chair or Deputy Chair of Committees who is appointed Primate's Chancellor shall cease to hold office as Chair or Deputy Chair of Committees as the case may be and shall be ineligible to hold any such office while holding the office of Primate's Chancellor.
18. (1) The appointment of the Primate's Chancellor shall be in writing under the hand of the Primate and shall be for such period as is specified in the appointment or until the office of Primate becomes vacant, whichever first shall happen.
- (2) Notwithstanding the provisions of subsection (1) the Primate's Chancellor -
- (a) may resign the office by notice in writing to the Primate; and
- (b) may be removed from office by the Primate.
19. A Primate's Chancellor, before that person enters upon the execution of the office, is required to take and subscribe before the Primate or a person nominated by the Primate entitled to administer an oath:
- (a) the following oath or affirmation:
- "I, AB, do swear that I will, to the utmost of my understanding, in all things deal uprightly and justly in my office: so help me God."; or
- "I, AB, do solemnly and sincerely affirm that I will, to the utmost of my understanding in all things deal uprightly and justly in my office."
- and
- (b) the following declaration:
- "I, AB, do solemnly and sincerely declare my assent to be bound by the Constitution of the Anglican Church of Australia and by the Canons and Rules from time to time in force of the General Synod".

Transitional provisions

20. Notwithstanding any other provisions of this Canon:
- (a) the person holding the office of Primate at the time when this section takes effect shall continue in office until his successor is elected in accordance with this section and has accepted appointment, and he shall be eligible for re-election at that time for a period of six years but for no further consecutive term;

- (b) there shall be a meeting of the Board for the election of Primate in accordance with the provisions of this Canon which shall be convened to be held as soon as reasonably practicable in or after the month of September 2008.
