

BILL 17

A BILL FOR THE NATIONAL REGISTER AMENDMENT CANON 2017

EXPLANATORY MEMORANDUM

General Background

1. The object of this canon is to amend the National Register Canon 2007 to:
 - (a) change the responsibility for entering Information in the National Register from the General Secretary to the Director of Professional Standards;
 - (b) ensure that conduct amounting a grooming in relation to a child, or the failure to comply with laws requiring the disclosure of a child sexual offence to the police, or the reporting of child abuse to the police or other authority, by a member of the clergy or church worker can be entered in the National Register;
 - (c) clarify the meaning of words and expressions used in the National Register Canon 2007; and
 - (d) provide that the report of the audit of the operation of the National Register is to be published on the General Synod website.
2. The system used for the entry of Information in the National Register involves the Director of Professional Standards directly making the entry rather than the Director of Professional Standards notifying the General Secretary who then makes the entry. The canon is being amended to reflect this system with the consequential amendment of the Protocol for provision of Information for inclusion in the National Register 2007 (which may be passed by a resolution).
3. There has been an instance where a Director of Professional Standards has received a complaint of grooming of a child by a church worker, but was unable to make an entry in the National Register because the conduct did not come within the definition of "child abuse".
4. A complaint of the failure by a member of the clergy or church worker to comply with laws requiring:
 - (a) the disclosure of a child sexual offence to the police; or
 - (b) the reporting of child abuse to the police or other authority;

cannot be entered in the National Register because the conduct does not come within the definition of "child abuse".

5. There has been uncertainty whether a Director of Professional Standards is required to enter a complaint against a member of the clergy or church worker in the National Register because some words and expressions used in the National Register Canon 2007 are not defined. Further, the definition of “adverse working with children check” does not accurately reflect the laws in the States and Territories which provide for the cancellation, revocation, suspension of, and refusal to issue, a working with children check, but not the issue of an adverse working with children check.
6. The purpose of the publication the report of the audit of the operation of the National Register on the General Synod website is to provide public accountability.
7. As the National Register Canon 2007 has been determined by the Appellate Tribunal not to affect the order and good government of the Church within a diocese, or the church trust property of a diocese, the canon contains no such declaration under s 30(b) of the Constitution. It is intended that the canon will come into force on a date appointed by the President.

Notes on Clauses

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| Clause 1 | states the title of the canon and that the National Register Canon 2007 is referred to as the principal canon. |
| Clause 2 | amends section 5 of the principal canon by providing that an adverse check is to be recorded in the National Register. |
| Clause 3 | amends section 6 of the principal canon by providing that an adverse check is to be recorded in the National Register. |
| Clause 4 | amends section 8 of the principal canon by providing that the Director of Professional Standards shall enter Information in the National Register. |
| Clause 5 | amends section 15 of the principal canon by providing that each diocese shall provide access to records and provide information to enable the audit of the operation of the National Register to be undertaken and the report of the audit shall be published on the General Synod website. |
| Clause 6 | amends the First Schedule of the principal canon by amending paragraph 18 to specify an adverse check. |
| Clause 7 | amends the Second Schedule of the principal canon by amending paragraph 13 to specify an adverse check. |
| Clause 8 | amends the Third Schedule of the principal canon by deleting definition |

of **adverse working with children check**, amending the definitions of **bullying, child abuse, Church body, church worker, sexual misconduct** and **working with children check** and inserting definitions of **adverse check, child offence, controlled by a diocese or province or the General Synod, grooming, independent person, sexual abuse, sexual assault, sexual harassment, sexually inappropriate behavior, wilful or reckless failure to report child abuse** and **working with vulnerable people check**.