

## BILL 05

### A BILL FOR THE SPECIAL TRIBUNAL (LIMITATION PERIOD) CANON 2017

#### EXPLANATORY MEMORANDUM

##### General Background

1. Under section 13(1) of the Special Tribunal Canon 2007 the Episcopal Standards Commission (ESC) is permitted to take action only in respect of a complaint alleging an offence mentioned in the First Schedule where the complaint relates to conduct or an omission alleged to have occurred not more than 12 months prior to the date on which the complaint is received by the ESC.
2. The structure of the First Schedule is awkward. It sets out offences in paragraphs 1, 2 and 3 that are subject to the limitation period of 12 months. They are offences of the type that are commonly listed in the canons dealing with discipline of bishops or clergy: any breach of faith, ritual or ceremonial; drunkenness; wilful failure to pay just debts.
3. Paragraph 4 of the First Schedule sets out as a category of offence that is subject to the limitation period of 12 months as “Wilful Violation of the Constitution or of the Canons made thereunder or of the Ordinances of Provincial Synod or Diocesan Synod”, but then excludes from the operation of that limitation period of 12 months the offences that are listed in subparagraphs (a) and (b) of paragraph 4:
  - “(a) wilful commission of an offence mentioned in item 1, 4 or 6 of section 2 of the *Offences Canon 1962*; and
  - (b) any other breach of discipline not mentioned in items 1, 2 and 3 of the Schedule.”
4. The ESC proposed to Standing Committee that item 5 of section 2 of the *Offences Canon 1962* should also be exempt from the limitation period of 12 months. Rather than carve out more exceptions to paragraph 4 of the First Schedule which would leave paragraph 4 with little work to do, it is proposed to delete paragraph 4 of the First Schedule to the Special Tribunal Canon 2007.
5. This will have the effect that the only offences that will be the subject of the limitation period of 12 months will be those that are set out in paragraphs 1, 2 and 3 of the First Schedule.
6. On the basis this bill deals with or concerns the discipline of the church, the procedure of a special bill must be followed, unless Synod by votes of at least three-fourths of the members present in each house decides that it need not proceed as a special bill. Pursuant to section 30(a) of the Constitution any canon affecting the discipline of the church is deemed to affect the order and good government of the church within a

diocese, and will not come into force in any diocese unless and until the diocese by ordinance adopts the canon.

#### **Notes on Clauses**

- Clause 1 contains the title of the canon.
- Clause 2 provides that the principal canon is the Special Tribunal Canon 2007.
- Clause 3 deletes paragraph 4 of the First Schedule to the principal canon which has the effect of making the offences listed in paragraphs 1, 2 and 3 of the First Schedule the only offences that are subject to the limitation period set out in section 13(1) of the principal canon.