

BILL NO 1

Explanatory Memorandum

In 2003 the Courts and Tribunals Committee, comprising both Archbishops, the Bishop of Cork, ecclesiastical experts, judges and lawyers, was set up by the Archbishop of Armagh to review the structures and procedures relating to the ecclesiastical courts and tribunals of the Church of Ireland which have remained virtually unchanged since the late nineteenth century. Following consideration at General Synod 2005 of an interim report from that Committee to the Standing Committee, the Courts and Tribunals Committee reflected upon points raised during that debate and brought to Standing Committee a draft Bill in November 2007. The draft Bill, following consideration by Standing Committee and by the RCB and its Executive Committee, has been further revised by the Courts and Tribunals Committee.

The Bill, which seeks to revise and replace Chapter VIII of the Constitution with a new Chapter VIII, includes a new disciplinary process sensitive to the concerns of the clergy and the key pastoral role of bishops while at the same time ensuring compliance with the legislation of both jurisdictions in Ireland and the requirements of the European Human Rights legislation.

Clause 2 of the Bill seeks to replace Chapter VIII of the Constitution with a revised and amended Chapter VIII as set out in Schedule I to the Bill.

In view of the detailed preparatory work entailed and the timescale for the establishment of the new Disciplinary Bodies Clause 3 contains a proposed date of commencement for the new provisions of 1 January 2009 and Clause 4 makes similar provision for the date for the consequential amendments of existing legislation as set out in Schedule II to the Bill.

Note: For ease of reference, to distinguish between the clauses of the accompanying Bill and the draft provisions of the new Chapter VIII, the draft provisions of the new Chapter VIII as set out in Schedule I to the Bill will, throughout this document, be referred to as "draft section []" as appropriate.

As stated in the Preliminary provision of the proposed new Chapter VIII, the tribunals and courts defined in Parts I, II and IV shall be the ecclesiastical tribunals of the Church of Ireland and will be called the Diocesan Courts of the several dioceses and united dioceses, the Court of the General Synod and the Disciplinary Tribunal and Appeal Tribunal. Any question of discipline involving any archbishop, bishop or member of the clergy will be dealt with under the new Part IV and similarly any question of doctrine which arises during the course of a disciplinary hearing will be heard and determined under the new Part IV. Questions of discipline will be dealt with by the Disciplinary Tribunal and the Appeal Tribunal and will at no stage come before a Diocesan Court or the Court of the General Synod.

Draft Part I of the new Chapter VIII relates to the Diocesan Courts. Apart from re-numbering and the omission of all references to disciplinary proceedings concerning archbishops, bishops and members of the clergy there are few changes in the provisions relating to these Courts and, unless specifically stated in this Explanatory Memorandum, the new provision is a replica of an existing provision. Draft section 5(b), which replaces section 13 of Chapter VIII, has, apart from amendment to reflect the existence of the new draft Part IV of Chapter VIII, included new figures to update the financial costs of proceedings in the Diocesan Court.

Similarly draft Part II, apart from amendment to delete references to any question of doctrine or ritual or of discipline involving bishops or members of the clergy, replicates the existing provisions of Chapter VIII relating to the Court of General Synod except in respect of draft sections 9(c) and 9(d). These draft subsections would replace existing sections 38 and 39, amended to update the financial costs of proceedings in the Court of General Synod.

Draft Part III of the new Chapter VIII, which contains provisions relating to Diocesan Courts and the Court of General Synod and to the granting of licences, dispensations and faculties, replicates the provisions of the existing Parts III and V of Chapter VIII in relation to those matters amended to delete references to hearings of disciplinary proceedings concerning archbishops, bishops and members of the clergy. Existing section 49 of Part III will become obsolete.

The substantive changes are found in Part IV which is entirely new and provides a new structure for dealing with disciplinary matters and for the establishment and appointment of several new bodies. These bodies will be in addition to the existing Diocesan Courts and the Court of General Synod whose work will continue in all matters as before except in matters of discipline.

All matters relating to the determination of cases in which a complaint or allegation touching upon or apparently touching upon any conduct (whether by act or omission), behaviour, performance or affairs of any bishop or any member of the clergy in respect of any offence listed under draft section 25 will be dealt with under the new process. Draft section 25 restates the offences previously contained in section 53 of Chapter VIII; only two new offences have been added, namely, substance abuse and neglect of duty.

The new disciplinary bodies are listed in draft section 18 and detailed in draft sections 20-22 but, as provided in draft section 19, no disciplinary process could be initiated under Part IV until pastoral resolution or reconciliation has, in the determination of the appropriate bishop or archbishop, proved impossible or inappropriate.

In draft section 20 provision is made for the appointment by the Standing Committee, in consultation with the Representative Body, of a person to be the Complaints Administrator who must be a human resources practitioner or a lawyer or other similarly qualified person and who must not be an employee of the Representative Body nor a member of the clergy. The role and duties of the Complaints Administrator are set out in draft sections 26-28.

Draft sections 21 and 22 provide for the appointment and election of the bodies which would be the key organs of the new disciplinary process; the composition of these bodies is summarised in the Annex to this Explanatory Memorandum.

Draft section 23 details the funding provisions for the new disciplinary scheme and draft subsection 23(a) includes a requirement for the Complaints Committee, prior to the beginning of each year, to prepare and submit to the Standing Committee an annual budget for consideration and onward transmission to the Representative Body.

The duty of every bishop and every member of the clergy of the Church of Ireland to cooperate fully at every phase of the new disciplinary process is emphasised in draft section 24 which includes in draft subsection (d) a declaration which must be signed by members of the Complaints Committee and any Disciplinary Tribunal or Appeal Tribunal before they can perform any of the duties of such office.

Draft section 26 sets out who has the right to make a complaint and how it is to be brought to the attention of the Complaints Administrator. In draft subsections 26(a) and (b) it is provided that any bishop, any member of the clergy or any lay member of the Church of Ireland who has a proper interest may do so by means of a written submission signed by that complainant. Draft subsection (c) provides that in respect of complaints arising under either subsection 26(a) or 26(b) the written submission must be accompanied by the sum of £600 or €1,000 (or such other sum as from time to time prescribed by the Rules Committee). The sum will be held by the Complaints Administrator and returned to the Complainant unless the complaint is dismissed by the Complaints Administrator or the Complaints Committee decide that a *prima facie* case has not been made out in respect of the complaint.

Draft section 27 deals with the processing of complaints in respect of members of the clergy. Under draft section 27(a) if the Complaints Administrator were to decide that there were no reasonable grounds for the complaint then, subject to obtaining the written approval of either the chairperson or vice chairperson of the Complaints Committee, the Complaints Administrator could dismiss the complaint. Unless the complaint has been so dismissed under subsection 27(a) or the bishop has already decided that pastoral resolution has not been possible or is inappropriate, the Complaints Administrator must then refer the complaint to the relevant bishop for pastoral resolution under draft section 19. Only after the relevant bishop has determined that pastoral resolution is not possible will the Complaints Administrator refer the complaint to the Complaints Committee.

Under draft subsection 27(d) the relevant bishop may suspend from office that member of the clergy until such time as all the disciplinary proceedings have been formally completed and the subsection details the arrangements which will become effective during the period of the suspension. Draft section 28 details the processing of complaints in respect of a bishop. The provisions are very similar to those relating to complaints in respect of a member of the clergy with provision for pastoral resolution by the relevant archbishop and the possibility of continued residence in the see house during any period of suspension.

In draft section 29 provision is made for the investigation of complaints by the Complaints Committee and for the procedures which must be followed by the Complaints Committee before making its decision on whether or not a *prima facie* case against the bishop or member of the clergy exists. If the Complaints Committee were to decide that there was no *prima facie* case then the matter would not proceed further. However, if the Complaints Committee were to decide that there was a *prima facie* case then it could do any of the following:

- (i) decide that no further action be taken on the complaint or any part of it; or
- (ii) defer further consideration of the whole or part of the complaint; or
- (iii) offer the member of the clergy concerned a “consent order” under draft section 30 (i.e. the imposition of an agreed sanction). If the member of the clergy concerned did not accept the offer the case would be referred to a Disciplinary Tribunal; or
- (iv) refer the matter to mediation; or
- (v) refer the case to a Disciplinary Tribunal as a formal complaint in terms formulated by the Committee.

Draft section 30 details the procedures to be followed where the Complaints Committee decides to deal with a complaint by way of a consent order.

Draft sections 31 and 32 contain the detailed procedures for a formal complaint being brought for hearing to a Disciplinary Tribunal and for the consideration of such complaints by a Disciplinary Tribunal. Under draft section 31 the Disciplinary Tribunal is appointed by the chairperson of the Disciplinary Panel and will consist of a Lawyer as chairperson, one member of the clergy (or, where the complaint being heard is in respect of a bishop’s conduct, one bishop nominated by the House of Bishops) and one layperson. No former member of the Complaints Committee who has been concerned with that complaint may be a member of that Disciplinary Tribunal nor may a person who is ordinarily resident in the diocese in which the member of the clergy is beneficed or licensed.

If the matter were referred to a Disciplinary Tribunal a full hearing would be held in which both sides would be entitled to be represented by lawyers (or suitable others), to examine their own witnesses and to cross examine the other side's witnesses. The matter would be prosecuted by the Complaints Committee and not the complainant. To the extent that the complaint involves a matter of doctrine or ritual it would be referred by the Tribunal to the House of Bishops for a statement setting out the collective understanding of the House of Bishops of the current and orthodox position of the Church of Ireland on such matter of doctrine or ritual (see draft section 39). Such statement would be binding on the parties and the Tribunal concerned solely in respect of the matter under consideration by the Tribunal.

Under draft section 33 the range of sanctions which could be imposed are similar to those previously contained in sections 57-59 of Chapter VIII and include temporary deprivation of office, deprivation of office or, in the case of a member of the clergy, deposition from holy orders.

Draft section 34 deals with appeals and the appointment of an Appeal Tribunal. If a bishop or a member of the clergy were dissatisfied with the decision of a Disciplinary Tribunal he or she would be entitled appeal it to an Appeal Tribunal but the Complaints Committee would not have a right of appeal. In draft section 34 the detailed provisions concerning the right of appeal are set out as is the composition of the Appeal Tribunal with safeguards similar to those concerning the Disciplinary Tribunal. No appeal will, however, lie in respect of a matter of doctrine or ritual on which the House of Bishops had issued a statement under draft section 39.

In draft section 35 the procedure for the hearing of appeals by the Appeal Tribunal is detailed and where the appeal is on the grounds that the finding of the Disciplinary Tribunal is wrong the appeal shall be by way of a rehearing. (The draft section would ensure that the procedures adopted by the Appeal Tribunal are fair and consistent with natural justice.) With certain limited exceptions, all proceedings before an Appeal Tribunal (like those before a Disciplinary Tribunal) would be heard in public and the results of their decisions would be published as provided in draft sections 36 and 37.

Draft section 38 relates to orders for costs which may be made by a Disciplinary Tribunal or by an Appeal Tribunal and subsection (f) provides important safeguards on the award of fees, costs and expenses.

Provision is made in draft section 40 for the maintenance of a register of all orders made by any Disciplinary Tribunal and any Appeal Tribunal. Such register will be open to inspection by members of the public in the Representative Church Body Library.

Draft section 41 relates to indemnity and provides that the members of the disciplinary bodies shall be indemnified by the Representative Church Body from all losses and expenses incurred by them in or about the discharge of their respective duties, except for those resulting from their own wilful act, neglect or default.

Transitional provisions in respect of proceedings begun before a Diocesan Court or before the Court of the General Synod before 1st January 2009 are contained in draft section 42.

Note: Appendices A and B which relate to proceedings in the Diocesan Courts and the Court of the General Synod are unchanged.

ANNEX

Provisions detailing composition of the disciplinary bodies

Complaints Committee (qv draft section 21)

- 26 members comprised of one clerical and one lay representative of each diocese or united diocese under jurisdiction of one bishop and two members appointed by the Standing Committee.
- Elected at Diocesan Synod, clerical by clerical members of Diocesan Synod and lay by lay members of Diocesan Synod, to hold office from 1st January of the first year of the General Synod triennium for six years. To be elected every second triennium thereafter. Eligible for re-election.
- Casual vacancies to be filled by clerical/lay members of Diocesan Synod as soon as convenient.
- Quorum for meetings of the Complaints Committee to be six persons of whom two must be members of the clergy and two laypersons.
- Standing Committee to appoint Chairperson and Vice-Chairperson of the Complaints Committee.
- No person to be a member of the Complaints Committee at same time as he or she is a member of the Disciplinary Panel.

Appointment and Composition of the Disciplinary Panel (qv draft section 22)

- 12 persons, four of whom to be members of the clergy and remaining eight to be laypersons of whom four shall be lawyers.
- Elected by Standing Committee prior to commencement of General Synod triennium to hold office from 1st January of first year of General Synod triennium for six years and to be re-elected every second triennium thereafter. Eligible for re-election.
- No member of Standing Committee may be a member of the Disciplinary Panel.
- Casual vacancies to be filled by Standing Committee as soon as convenient.
- Chairperson and vice-chairperson to be appointed by Standing Committee from amongst those members of the Disciplinary Panel who are lawyers.
- No person to be a member of the Disciplinary Panel at the same time as he or she is a member of the Complaints Committee.

REV AM WILKINSON
LADY SHEIL

(at the request of the Standing Committee)

BILL

To revise, amend and replace Chapter VIII of the Constitution

To revise, amend and replace Chapter VIII of the Constitution.

WHEREAS it is desirable to provide a revised scheme of ecclesiastical discipline for the Church of Ireland which would ensure compliance both with the established principles of Canon Law and with the requirements of civil law and natural justice;

And WHEREAS for such purposes it is necessary to replace Chapter VIII of the Constitution with a revised and amended Chapter VIII as set out in Schedule 1 to this Statute;

And WHEREAS the provisions of the revised and amended Chapter VIII, contained in Schedule 1 to this Statute, will necessitate consequential amendments to certain provisions of the Constitution as set out in Schedule II;

Be it enacted by the Archbishops and Bishops and the Clergy and Laity of the Church of Ireland, in General Synod assembled in Galway in the year 2008 and by the authority of the same as follows:

1. In this Statute 'Chapter VIII' means Chapter VIII of the Constitution of the Church of Ireland.
2. For Chapter VIII there shall be substituted a new Chapter VIII as set out in Schedule I to this Statute.
3. The provisions contained in Section 2 of and Schedule I to this Statute shall come into operation on 1 January 2009.
4. The amendments set out in Schedule II to this Statute shall come into force on 1 January 2009.

SCHEDULE I

CHAPTER VIII

ECCLESIASTICAL TRIBUNALS, FACULTIES, REGISTRIES

1 Preliminary

The tribunals and courts defined in this Chapter shall be the ecclesiastical tribunals of the Church of Ireland; they shall possess the powers and proceed in the manner hereinafter prescribed, and shall respectively be called the Diocesan Courts of the several dioceses and united dioceses, the Court of the General Synod and the Disciplinary Tribunal and the Appeal Tribunal. Any question of discipline involving any Archbishop, bishop or member of the clergy and any question of doctrine that arises during the course of a disciplinary hearing shall be heard and determined under Part IV.

Part I

DIOCESAN COURTS

2 Jurisdiction

- (a) There shall be a Diocesan Court in each diocese or united diocese, which shall have power and jurisdiction to hear appeals from the decision of the Ordinary on all matters so appointed by the law of the Church of Ireland. The Ordinary nevertheless shall have power to refer to the said Court any matter within the jurisdiction of that Court submitted for the Ordinary's consideration without the Ordinary having given a personal decision thereon. In case of such reference the bishop (as Ordinary) shall not be prevented from presiding at the Diocesan Court.
- (b) In all cases where the parties submit, or are bound by the laws of the Church, the Diocesan Court may hear and determine any questions connected with the property of the Church or the administration thereof, or with ecclesiastical rights generally, which may arise between members of the Church of Ireland, if the respondent be resident within the diocese or united diocese in which the court has jurisdiction.

3 The Diocesan Court: Judge, Chancellor, Members and Registrar

- (a) In Part I of this Chapter, the word "**bishop**" shall include an archbishop in relation to any diocese which is normally or temporarily under the governance of an archbishop.
- (b) The bishop of the diocese or the bishop's commissary shall be the judge in the Diocesan Court: Provided always that in case of the disability of any bishop to sit in the Diocesan Court by reason of illness or any other hindrance, such bishop shall have power to appoint another bishop or other member of the clergy to sit as commissary for and in place of the bishop. The bishop, or the bishop's commissary, shall in every case be assisted by the chancellor.

- (c) The bishop of each diocese shall from time to time, as occasion may require, appoint under episcopal seal (which appointment shall be filed of record) a fit and proper person as chancellor, to sit with the bishop in the Diocesan Court as assessor, who shall be a person qualified for election as a lay judge of the Court of the General Synod as provided by section 8(e) of this Chapter or a solicitor of ten years' practice in any part of Ireland, and shall hold office for ten years (which term may be renewed for further terms of ten years), or until resignation, or order of removal by the bishop founded upon a resolution of the diocesan synod: Provided always that nothing herein contained shall prevent the same person from holding office as chancellor in two or more dioceses.
- (d) The clergy of the diocesan synod shall elect three members of the clergy, and the lay synod members shall elect three laypersons, as members of the Diocesan Court, who shall be elected to hold office from 1st January of the first year of the General Synod triennium for three years and be elected triennially thereafter, and shall be eligible for re-election. Any casual vacancy by death, resignation, or continued absence from Ireland for twelve months, occurring among the clerical or lay members of any Diocesan Court, shall be filled as soon as conveniently may be by the clerical or lay members, as the case may be, of the diocesan synod of the diocese in which such vacancy shall have occurred. Any person elected to fill a casual vacancy shall hold office only so long as the person in whose place such person shall have been elected would have held the office if such vacancy had not occurred. The bishop shall in every case summon by rotation to sit with the bishop in the Diocesan Court one member each of the clergy and of the laity from those so elected, to whom, along with the bishop or the bishop's commissary, all questions of fact shall be referred: Provided, however, that if both parties shall express their consent in writing, it shall be in the power of the bishop or the bishop's commissary to hear and determine the case alone.
- (e) The bishop shall from time to time, as occasion may require, appoint a fit and proper person to be the registrar of the diocese and may also appoint one or more assistant registrars. Each assistant shall perform such of the registrar's duties as the bishop shall assign. Registrars and assistant registrars shall hold office until otherwise directed by the bishop for the time being or until resignation or death. Registrars and assistant registrars shall receive such salary as the diocesan council of the diocese shall appoint, and such travelling or other expenses incident to the performance of their duties as the diocesan council may determine.
- (f) In any special circumstances, particulars whereof shall be filed in the registry of the diocese or united diocese, the bishop may appoint under episcopal seal a fit and proper person to be a deputy chancellor or a deputy registrar of such diocese or united diocese during the continuance of such special circumstances and any such appointment and the duration thereof shall be filed of record. Every deputy so appointed shall during the continuance of such appointment have all the powers and perform all the duties of the chancellor or registrar in the place of whom such deputy is so appointed to act: Provided always that every deputy chancellor shall be qualified as hereinbefore provided with respect to the chancellor.
- (g) Every chancellor, deputy chancellor, registrar, deputy registrar, assistant registrar, and elected member of a diocesan court, shall before entering upon the duties of office, make and sign a declaration in the following form:

I, A. B., do solemnly and sincerely declare that I am a member of the Church of Ireland, and that I will faithfully, and to the best of my ability, execute the office of _____ of the diocese (or united diocese, *as the case may be*) of _____ without fear, favour, affection or malice.

4 Diocesan Registry

The Diocesan Registry shall be established in a place to be named by the bishop, and the diocesan council shall make such provision for the safe custody of the registry and its contents as the bishop shall require.

5 Original Proceedings in and Appeals and References to Diocesan Court

- (a) Original proceedings in and appeals and references to Diocesan Court shall be presented by petition in writing, duly signed. The petition shall be lodged with the registrar of the diocese. Such petition shall be in the form set forth in Appendix A hereunto annexed, or as near thereto as the nature of the case will admit. Provided that the petitioner or petitioners, except in the case of an archbishop or bishop, shall be resident within the diocese, or shall have been personally injured or aggrieved by the act complained of.
- (b) The petitioner, or petitioners, except in the case of an archbishop or bishop, shall lodge with the registrar of the diocese a sum of £600 or €1,000 (or such other sum as the Rules Committee may from time to time prescribe) as appropriate, as security for the payment by such petitioner or petitioners of all such costs and expenses as may be ordered by the Diocesan Court, or by the Court of the General Synod.
- (c) The registrar, within seven days after such money is lodged, shall send a copy of the petition to the respondent, in a registered or recorded letter addressed to the respondent's residence or last known place of abode; and, after receiving an answer from the respondent, or, if no answer shall in the meantime have been received, after the expiration of fourteen days from the day on which such copy of the petition shall have been so sent, shall lay before the bishop the petition, and the answer (if any) of the respondent thereto.
- (d) In all cases where a petition is to be heard in the Diocesan Court, it shall be the duty of the registrar to apply to the chancellor for a citation. The chancellor shall thereupon issue a citation under the chancellor's hand, requiring the attendance of either of the parties before the Diocesan Court, to be held at such time and place as the chancellor shall in such citation appoint: Provided that the first sitting of the court shall be held not less than one fortnight nor more than three calendar months after the date of issue of the citation.
- (e) The chancellor shall, at the instance of either of the parties, issue letters to persons whose evidence may be needed at the hearing, requesting them to attend at such time and place as aforesaid; and, if necessary, requesting them also to bring with them such documents relating to the matters in issue as may be in their possession, power, or procurement.
- (f) When any witness shall be unable or unwilling to attend, the chancellor may appoint, in such manner and on such terms as the chancellor shall see fit, a commissioner to take the testimony of such witness; and such witness may be examined, cross-examined, and re-examined, by the parties, or their agents, solicitors, or counsel, before such commissioner. The examination shall be reduced to writing, and signed by the witness and by the commissioner, and shall be forthwith transmitted by the commissioner, under seal, to the chancellor; and the same shall, without further proof, be available and admissible as evidence in all subsequent proceedings in the same case.
- (g) The petition, answer, and every other pleading may at any time be amended in such manner and on such terms as the court (or, if the court is not in session, the chancellor) shall think fit and necessary for the purposes of justice.
- (h) The evidence of all witnesses examined before the court shall be given *viva voce*, and shall be recorded as the court shall direct.
- (i) The court, after hearing the parties, or such of them as shall appear, their agents, solicitors, or counsel, and the witnesses, shall consider the evidence, and may deliver judgment, which shall be reduced to writing, or shall remit the case to the Court of the General Synod. The court shall make such order as to costs and expenses, including the registrar's fees and charges, and as to the disposal of the deposit, if any, as it shall think fit.
- (j) In every case in which a bishop shall institute proceedings in that bishop's own Diocesan Court, the bishop shall, and in all other cases may, direct the chancellor to act in the bishop's place; and such direction shall suffice to confer all the jurisdiction of the bishop on the chancellor in such case.

6 Appeals from Interlocutory Orders of a Diocesan Court

There shall not be any appeal in any suit or other proceeding before a Diocesan Court, without the special leave of the Court, from any interlocutory order not having the effect of a final order, until a final order shall have been pronounced thereon; but when a final order shall have been pronounced, the party appealing therefrom may also appeal from any interlocutory order or orders in the same case.

Part II

THE COURT OF THE GENERAL SYNOD

7 Jurisdiction

- (a) An appeal shall lie to the Court of the General Synod from every judgment and order of a Diocesan Court except in the case of proceedings under Chapter IX, section 16.
- (b) The Court of the General Synod shall have original jurisdiction in the following matters:
 - (i) any question of a legal nature which has arisen, or which may arise, in respect to the proceedings at any election to fill a vacancy in the office of an archbishop or bishop;
 - (ii) any other matter so appointed by the law of the Church of Ireland.
- (c) It shall be in the power of the House of Bishops or of the General Synod to refer to the Court of the General Synod, for hearing and determination, any questions of a legal nature which have arisen or which may arise in the course of their proceedings; and the said Court shall thereupon proceed to hear and determine the same in the same manner as in the case of an appeal, or to advise the House of Bishops or the General Synod in respect of the same, as the case may require.
- (d) The Court of the General Synod shall not determine any matter or question which, in the opinion of the lay judges, is within the jurisdiction and more proper to be submitted to the consideration and decision of a civil tribunal.

8 Constitution and Membership: Registrar

- (e) The Court of the General Synod shall be constituted as follows:
 - (i) In all cases in which the Representative Body is a party the Court shall be constituted of the three lay judges first in order upon the list of the judges elected, in manner hereinafter provided, by the Standing Committee of the General Synod (not being members of the Representative Body) who may be able to attend.
 - (ii) In the case of
 - (a) any question of a legal nature which has arisen, or which may arise, in respect to the proceedings at any election to fill a vacancy in the office of an archbishop or bishop; or
 - (b) any questions referred to the Court by the House of Bishops or the General Synod under section 7(c) of this Chapter; or
 - (c) an appeal from a judgment or order of a diocesan court under section 9(d) of this Chapter,
 the Court shall be constituted of three ecclesiastical and four lay judges.
 - (iii) In any other case the Court shall be constituted of two ecclesiastical and three lay judges.

- (f) The ecclesiastical judges to constitute a Court of the General Synod shall be the three or two, as the case may be, members of the House of Bishops, first in order of precedence, who may be able to attend.
- (g) The lay judges to constitute a Court of the General Synod shall be the four or three, as the case may be, persons first in order upon the list of lay judges as is hereinafter provided, who may be able to attend.
- (h) No archbishop or bishop, and no chancellor or deputy chancellor, shall sit in the Court of the General Synod for the hearing of any appeal from the Court of their own diocese.
- (i) Every person being a member of the Church of Ireland who holds or shall have held the office of a judge of the Supreme Court or of the High Court of the Republic of Ireland or of a judge of the Supreme Court of Judicature of Northern Ireland, or who shall have been for not less than ten years a barrister practising at the Irish Bar or at the bar of Northern Ireland, or who shall have been for not less than ten years a practising solicitor admitted to the Roll of Solicitors in Ireland or in Northern Ireland or who holds or has held the office of chancellor of a diocese, shall be qualified for election as a lay judge of the Court of the General Synod.
- (j) The Standing Committee of the General Synod shall forthwith after the first ordinary session of each General Synod elect ten lay judges, to constitute the list of lay judges, and shall also from time to time fill by election any vacancy or vacancies which may occur in the list of lay judges for the time being and shall report to the following session of the General Synod.
- (k) The registrar of the diocese of Dublin shall be also the registrar of the Court of the General Synod.

9 Proceedings in the Court of the General Synod; Original Jurisdiction

- (a) Original proceedings in and references and remittances to the Court of the General Synod shall be presented by petition in writing, duly signed. The petition shall be lodged with the registrar of the Court of the General Synod, and shall be in the form set forth in Appendix A hereto annexed, or as near thereto as the nature of the case will admit. The petition shall be served upon every person named as respondent. The registrar of the Court of the General Synod shall thereupon issue a citation under the registrar's hand, requiring the attendance of each of the parties before the Court of the General Synod, to be held at such time and place as the registrar shall in such citation appoint,
- (b) The decision of the majority of the members of the Court of the General Synod shall be the decision of the Court.
- (c) The petitioner or petitioners, except in the case of an archbishop or bishop, shall lodge with the registrar of the Court the sum of £600 or €1,000 (or such other sum as the Rules Committee may from time to time prescribe) as appropriate as security for the payment by the petitioner or petitioners of all such costs and expenses of the proceedings as may be ordered by the Court.
- (d) Every party appealing from a judgment or order of a Diocesan Court shall state the grounds of the appeal in writing, in the form set forth in Appendix B hereunto annexed, or as near thereto as the nature of the case will admit, and shall lodge the same, within fourteen days after the judgment or order, with the registrar of the Court of the General Synod. The person or persons so appealing shall lodge with the registrar of the said Court a sum of €1,000 or £600 (or such other sum as the Rules Committee may from time to time prescribe) as security for to pay all such costs and expenses of the appeal as the appellant or appellants may be ordered by the Court of the General Synod to pay. Thereupon it shall be the duty of the registrar to send a copy of the appeal to the Archbishops of Armagh and Dublin, and to the member of the House of Bishops next in order of precedence, and shall obtain from the first in order of precedence of the three ecclesiastical judges of whom the Court may be constituted an order fixing a time and place for hearing the appeal, and the registrar shall summon each member of the Court, and the several parties, to attend at such time and place.

- (e) The registrar, within one week after the appeal shall have been lodged, shall require the registrar of the Diocesan Court to return to the Court of the General Synod the petition, the respondent's answer, if any, and any other pleadings, the notes of the evidence taken in the Diocesan Court, and the written judgment and order of the said Court, and the diocesan registrar shall forthwith return the same accordingly, authenticated by the diocesan registrar's signature.
- (f) The Court of the General Synod, having before it the evidence taken in the Diocesan Court, may allow either party to the appeal to produce additional evidence, either orally or taken by a commission, or by the further examination or cross-examination of witnesses examined before the Diocesan Court. When the parties, or such of them as shall attend upon the appeal, shall have been heard by themselves, their agents, solicitors, counsel, and witnesses, if any, the Court shall deliver such judgment and order as the case may require, which shall be reduced to writing and shall be final.
- (g) The Court of the General Synod shall have power upon appeal to set aside, vary or confirm the judgment or order of the Diocesan Court, and to direct by whom the costs and expenses of the proceedings, including the registrar's fees and charges, shall be defrayed or borne, and to dispose of the deposit or deposits, if any, as it shall think fit.

Part III

PROVISIONS RELATING TO DIOCESAN COURTS AND THE COURT OF THE GENERAL SYNOD

10 General

- (h) The several courts hereinbefore mentioned in parts I and II of this Chapter shall be open to the public, unless the judge or judges shall deem it expedient to sit in private on account of the matter of the enquiry or misconduct of the audience or any other urgent reason, in which case each of the parties may require that not more than six persons chosen by each of the parties shall be permitted to be present.
- (i) No person who is a party to any suit shall act as a member of the court by which the suit is heard.
- (j) The judge or judges of every court may from time to time adjourn the court as they shall deem fit.
- (k) It shall be the duty of every member of the Church of Ireland to attend and give evidence, when duly summoned to do so, at any hearing or investigation held under the authority of the Constitution.
- (l) Every person who shall be called as a witness at any hearing or investigation held as aforesaid, shall, before giving evidence, make a solemn declaration to speak the truth, the whole truth and nothing but the truth.
- (m) When the court shall have signed its judgment or order, the same shall be filed of record in the registry of the diocese, or of the Court of the General Synod, as the case may be.
- (n) The several proceedings of or on behalf of each court shall be prepared and recorded by the registrar of the court in which the case shall be pending, as the case may require.
- (o) The General Synod may from time to time, by resolution, regulate and provide for the election and summoning of the Court of the General Synod and for giving effect to the provisions of this Chapter, as occasion may require.

11 Rules Committee of Ecclesiastical Tribunals

- (p) The members of the House of Bishops, with the ten elected lay judges of the Court of the General Synod, shall constitute the Rules Committee of ecclesiastical tribunals under parts I and II of this Chapter.
- (q) The Rules Committee, or any three members thereof, one being an archbishop, may make rules for carrying the provisions of parts I and II of this Chapter into effect, and in particular for regulating all matters relating to procedure, practice, costs, expenses, and fees, giving security for costs, the pronouncement of judgments and orders, the validity of proceedings notwithstanding irregularity or defects of form, proceedings in the case of persons who cannot be found or served, the liability to and recovery of costs and expenses; the forms to be used, and all matters incidental to or connected with the administration of the ecclesiastical law of the Church of Ireland except any question of discipline involving any archbishop, bishop or member of the clergy and except any question of doctrine that arises during the course of a disciplinary hearing.
- (r) Every rule made in pursuance of this section shall be signed by three or more members of the Rules Committee, and shall be presented to the General Synod on the first day of its session next after the making of such rule, and it shall be lawful for the General Synod by a resolution to annul such rule without prejudice to the validity of anything done in the meantime in pursuance thereof; and every such rule, unless annulled as aforesaid, shall, while unrevoked, be of the same validity as if enacted in this Chapter.
- (s) Until further rules shall have been made in pursuance of this section, and subject to such rules when made, the rules, orders, forms and fees, dated 9th May 1935, and laid before the General Synod of 1935, as amended, shall be the rules, orders, forms and fees of the Diocesan Courts and registries, and of the Court of the General Synod and of the registry thereof respectively: Provided however that subject to the proviso to section 3(e) of this Chapter all fees of diocesan courts and registries shall be credited to diocesan funds.

12 Evidence by way of Statutory Declarations

It shall be lawful for the ecclesiastical tribunals under parts I and II of this Chapter to receive in evidence statutory declarations of witnesses, but upon such terms, if any, as to requiring the cross-examination of the witness either before the court itself or by commission or written interrogatories, or as to allowing such declarations to be answered, as may be directed by the court or prescribed by rules framed in pursuance of this Chapter.

13 Petition for a Rehearing

It shall be lawful for any person aggrieved by any judgment, or order of the Court of the General Synod, at any time within one year next after the date of such judgment, or order, to present a petition to the said Court, praying that the case may be reheard upon grounds to be set forth in such petition, and requesting that the judgment, or order may be set aside or varied; and thereupon it shall be lawful for the said Court, or any two members thereof, upon just and reasonable grounds, to order that the case shall be reheard by the said Court, and such rehearing shall take place when and as the said Court shall direct: Provided that the said Court or such members thereof may impose such terms, by way of security for costs and expenses, and by way of admission or otherwise, as shall be deemed just and proper.

14 Power to grant Licences, Dispensations and Faculties

The archbishops and bishops of the Church of Ireland shall have, and may use, all the same powers of granting licences, dispensations, faculties, and other writings which they had and might have used at the time of the passing of the Irish Church Act, 1869: Provided that all persons feeling aggrieved by the granting or withholding of any faculty, except in the case of the granting or withholding of a faculty for ordination, shall be entitled to have their case heard and determined by the Diocesan Court.

15 Power to declare vacant an Office held by a Layperson

If any layperson shall have been convicted and sentenced, by any of the temporal courts, for any criminal offence, or shall be a fugitive from justice in any case in which a warrant has been issued for such person's apprehension, or shall have ceased to be a member of the Church of Ireland, or shall be incapacitated by mental infirmity, or shall wilfully and without sufficient cause have neglected or refused to attend and give evidence when duly summoned to do so at any trial or investigation held under the authority of the Constitution, the archbishop or bishop of the diocese, with the advice of the archbishop's or bishop's chancellor, may, by order under episcopal hand and seal, declare any office in the Church of Ireland to which such layperson may have been elected or appointed to be vacant, and the same shall thereupon be filled in due course.

16 Costs and Expenses in the Court of the General Synod

- (t) In all proceedings duly taken in the Court of the General Synod, it shall be lawful for the said Court, if in its discretion it shall so think fit, to order the payment, out of the General Purposes Fund, of the costs and expenses, in whole or in part, of such proceedings, or of any other legal proceedings consequent thereon, or incidental thereto; subject to the rules and regulations in force for the time being, and subject also to the provisions, limitations and conditions hereinafter contained in this section 16.
- (u) No costs or expenses shall be paid out of the General Purposes Fund to or for any unsuccessful party - other than an archbishop or bishop.
- (v) No costs or expenses shall, in any case, be paid out of the General Purposes Fund, which can be recovered either from any unsuccessful party, or by enforcing any security given for the payment of costs or expenses in the proceedings.
- (w) No order for the payment of any costs or expenses out of the General Purposes Fund to or for any party - other than an archbishop or bishop - shall be made in any case which, in the opinion of the Court, does not involve or affect the general interest or discipline of the Church, or is not of sufficient importance to justify the application of that fund to the payment of the costs and expenses mentioned in the order.
- (x) The Court shall have power, in each case, either to order the costs and expenses to be taxed or moderated as prescribed by rules, or to measure and fix the amount to be paid out of the General Purposes Fund.
- (y) The Court shall have power, if, having regard to the length of time occupied by the hearing or to any other special circumstances connected with the case, the Court in its discretion shall so think fit, to order the payment out of the General Purposes Fund of the expenses necessarily incurred by any members of the Court in attending such proceedings.

17 Costs and Expenses in a Diocesan Court

It shall be lawful for any diocesan synod, or for any diocesan council, with the authority of or subject to the approval of the synod of the diocese, to make such provision, by means of a diocesan general purposes fund or otherwise, for or towards the payment of the costs and expenses of proceedings duly taken in the Diocesan Court, as may to such diocesan synod or council seem necessary or expedient.

Part IV

DISCIPLINARY PROCEEDINGS

18 Definitions and Interpretation

(z) Unless the context otherwise requires, in this Part of this Chapter:

“Appellant” means a Respondent who has appealed a finding and/or order of a Disciplinary Tribunal in accordance with section 34;

“Appeal Tribunal” means a tribunal, appointed under section 34 (d) to hear an appeal;

“Complaint” means any complaint or allegation touching or apparently touching upon the conduct (whether by act or omission), behaviour, performance or affairs of any bishop or any member of the clergy in respect of any of the matters mentioned in section 25;

“Complainant” means a person who brings a Complaint to the attention of the Complaints Administrator;

“Complaints Committee” means the committee appointed under section 21;

“Complaints Administrator” means the person appointed by the Standing Committee with the approval of the Representative Body to be the Complaints Administrator for the purposes of this Part of this Chapter;

“Disciplinary Bodies” means the Complaints Administrator, the Complaints Committee, the Disciplinary Panel, each Disciplinary Tribunal and each Appeal Tribunal;

“Disciplinary Tribunal” means a tribunal appointed under section 31(a) to hear a Formal Complaint;

“Disciplinary Panel” means the panel of persons appointed under section 22;

“Formal Complaint” means a Complaint that has been formulated by the Complaints Committee and referred by it to a Disciplinary Tribunal in accordance with this Part of this Chapter;

“House of Bishops” means the archbishops and bishops of the Church of Ireland for the time being;

“Lawyer” means any person who is or was a judge in any part of Ireland, or is a solicitor or barrister who has practised for more than 10 years in any part of Ireland;

“Respondent” means any bishop or any member of the clergy in respect of whom a Formal Complaint has been referred to a Disciplinary Tribunal; and

“Standing Committee” means the Standing Committee of the General Synod.

(aa) For the purposes of this Part of this Chapter only and not otherwise the term **‘member of the clergy’** shall, unless otherwise specifically provided, mean a deacon or priest of the Church of Ireland and the term **‘bishop’** shall include an archbishop.

(bb) References in this Part of this Chapter to sections are, unless otherwise stated, references to sections of this Part of this Chapter.

19 Pastoral Resolution

- (cc) All members of the church are called to exercise a ministry of reconciliation. It is preferable, therefore, that all complaints and disputes be resolved pastorally within each diocese; that complaints against clergy be dealt with pastorally by diocesan bishops; or, in the case of complaints against a bishop by the archbishop of the province; or in the case of an archbishop by the archbishop of the other province.
- (dd) Bishops have a general duty whenever it is appropriate to endeavour to reconcile the parties involved in any complaint and achieve an outcome within their diocese accepted by all the parties as a first step before the disciplinary processes in this Chapter are set in motion. In fulfilling this function a bishop may put in place an enquiry, a process of conciliation or mediation or such other process of reconciliation or resolution as the bishop shall think appropriate.
- (ee) Only where a bishop, in that bishop's absolute discretion, determines that such pastoral resolution or reconciliation has not been possible or is not appropriate should recourse be had to the disciplinary process set out in this Part of this Chapter.

20 Appointment of a Complaints Administrator

The Standing Committee shall, in consultation with the Representative Body, from time to time appoint a person on such terms and subject to such conditions as it may think fit to be the Complaints Administrator for the purposes of this Part of this Chapter and, with the approval of the Representative Body, may remove any person so appointed and appoint another in his or her place. The person so appointed shall be a human resources practitioner or a Lawyer or other suitably qualified person. No person who is an employee of the Representative Body or a member of the clergy may be appointed as the Complaints Administrator.

21 Appointment and Composition of the Complaints Committee

- (ff) The Complaints Committee shall consist of one clerical and one lay representative of each diocese or united diocese under the jurisdiction of one bishop and two members appointed by the Standing Committee.
- (gg) The clergy of the diocesan synod of each diocesan or united diocesan synod shall elect one member of the clergy as a member of the Complaints Committee. The lay members of each diocesan or united diocesan synod shall elect a layperson as a member of the Complaints Committee. The members so elected shall be elected to hold office from 1st January of the first year of the General Synod triennium for six years and be elected every second triennium thereafter, and shall be eligible for re-election.
- (hh) Any casual vacancy by death, resignation, or continued absence from Ireland for twelve months, occurring among the clerical or lay members of the Complaints Committee, shall be filled as soon as conveniently may be by the clerical or lay members, as the case may be, of the diocesan synod or united diocesan synod which elected the person being replaced. Any person elected to fill a casual vacancy shall hold office only for so long as the person in whose place he or she shall have been elected would have held the office if such vacancy had not occurred.
- (ii) The quorum for meetings of the Complaints Committee shall be six persons, so long as there are at least two members of the clergy and two laypersons attending thereat. Any meeting of the Complaints Committee at which a quorum is present shall be competent to exercise all the functions and powers conferred upon the Complaints Committee by this Part of this Chapter.
- (jj) The Complaints Committee may delegate such of its functions and powers to sub-committees of its own members as it may deem necessary or convenient. Any sub-committee so formed shall comprise at least two members of the clergy and two laypersons and shall, in the exercise of the functions and powers so delegated, conform to any regulations that may be imposed on it by the Complaints Committee.

- (kk) The Standing Committee shall from time to time appoint a chairperson and a vice-chairperson of the Complaints Committee from amongst the members of the Complaints Committee..
- (ll) No person shall be a member of the Complaints Committee at the same time as he or she is a member of the Disciplinary Panel.

22 Appointment and Composition of the Disciplinary Panel

- (a) The Disciplinary Panel shall consist of not less than four members of the clergy and not less than eight laypersons of whom at least four shall be Lawyers.
- (b) The Standing Committee shall prior to the commencement of the General Synod triennium appoint the members of the Disciplinary Panel. The members so appointed shall be appointed to hold office from 1st January of the first year of the General Synod triennium for six years and be appointed every second triennium thereafter, and shall be eligible for re-appointment. No member of the Standing Committee may be a member of the Disciplinary Panel.
- (c) Any casual vacancy by death, resignation, or continued absence from Ireland for twelve months, occurring among the members of the Disciplinary Panel, shall be filled as soon as conveniently may be by the Standing Committee. Any person appointed to fill a casual vacancy shall hold office only so long as the person in whose place he or she shall have been appointed would have held the office if such vacancy had not occurred.
- (d) The Standing Committee shall from time to time appoint from those members of the Disciplinary Panel who are Lawyers a chairperson and a vice-chairperson of the Disciplinary Panel.
- (e) No person shall be a member of the Disciplinary Panel at the same time as he or she is a member of the Complaints Committee.

23 Funding of Complaints Committee

- (a) Prior to the beginning of each year the Complaints Committee shall prepare and submit to the Standing Committee for consideration and onward submission to the Representative Body an annual budget for that year.
- (b) The Representative Body may approve, with or without amendment, the annual budget. Where the Representative Body wishes to approve an annual budget with amendment it must first consult with the Standing Committee and the chairperson and/or vice chairperson of the Complaints Committee.
- (c) The Complaints Committee may if it considers it necessary to do so, undertake, during the course of a year, an interim review of its annual budget and following such review submit an amended or supplementary budget to the Standing Committee for consideration and onward submission to the Representative Body for approval. Section 23(b) applies with any necessary changes if an amended or a supplementary annual budget is submitted.
- (d) In each year the Representative Body shall provide, in such instalments as it sees fit, a grant equal to the budget approved in accordance with Section 23(b) for that financial year (including any amended or supplementary budget approved for that year). Any part of such a grant not expended or committed in that year shall be returned to the Representative Body.
- (e) Within one month of the end of each year the Complaints Committee shall submit to the Representative Body and the Standing Committee an income and expenditure account for the Complaints Committee for that year.

24 Duty to co-operate and Duty to have regard to Bishop's Role

- (a) It shall be the duty of every bishop and every member of the clergy of the Church of Ireland to co-operate fully at every phase of the disciplinary process provided for under this Part of this Chapter. It shall be the duty of every bishop and every such member (including those who are not involved in or the subject of the said disciplinary process) to provide such information, explanations, documents and computer and other electronic records as the Complaints Administrator, the Complaints Committee, a Disciplinary Tribunal or an Appeal Tribunal, as the case may be, may consider necessary to enable them to carry out their respective duties under this Part of this Chapter.
- (b) It shall be the duty of every lay member of the Church of Ireland to co-operate fully at every phase of the disciplinary process provided for under this Part of this Chapter. It shall be the duty of every such member (including such members who are not involved in or the subject of the said disciplinary process) to provide such information, explanations, documents and computer and other electronic records as the Complaints Administrator, the Complaints Committee, a Disciplinary Tribunal or an Appeal Tribunal, as the case may be, may consider necessary to enable them to carry out their respective duties under this Part of this Chapter.
- (c) The bishops and archbishops of the Church of Ireland have by virtue of their respective offices and consecration a role in administering discipline and each of the Disciplinary Bodies shall, in exercising its functions under this Part of this Chapter, have due regard to that role as outlined in section 19.
- (d) Members of the Complaints Committee and any Disciplinary Tribunal or Appeal Tribunal shall not be capable of performing any of the duties of office until they have signed the following declaration:

I, A.B.,¹ (do solemnly declare that I am a member of the Church of Ireland, and a communicant of the said Church, and) being fully sensible how important it is that complaints involving members of the clergy and bishops of the Church of Ireland be adjudicated on in a fair and unbiased manner in accordance with proper procedures undertake that I will duly and faithfully and to the best of my knowledge and power perform my duties as a member of

without fear or favour or affection or ill-will towards any person, and that I will uphold the Constitution and other laws of the Church of Ireland for the glory of God, the good of his Church, and the welfare of his people.

(Signed),

A.B.

Dated day of

25 Liability of Members of the Clergy and Bishops to Disciplinary Action

A member of the clergy or a bishop shall be liable to disciplinary action if he or she is guilty of:

- an act or omission which would have been a breach or violation of the ecclesiastical law of the United Church of England and Ireland, and an offence punishable by such law in Ireland, at the time of the passing of the Irish Church Act, 1869, and which is a breach or violation of the ecclesiastical law of the Church of Ireland for the time being;
- any crime for the time being punishable by law in any part of Ireland;
- failure to obey any order of a Diocesan Court, the Court of the General Synod or any Disciplinary Body;
- immorality;

¹ The words in brackets shall be omitted when the declaration is made by a member of the clergy.

- drunkenness or substance abuse;
- neglect of duty;
- conduct unbecoming to the sacred calling of a person in holy orders;
- any other act or omission which is a breach or violation of the canons or other laws of the Church of Ireland, for the time being; or
- teaching or publishing of any doctrine contrary to the doctrines of the Church of Ireland.

26 Right to Make a Complaint

- (a) Any bishop, any member of the clergy or any lay member of the Church of Ireland who has a proper interest may bring to the attention of the Complaints Administrator any Complaint in respect of a member of the clergy by means of a written submission signed by such person.
- (b) Any bishop or any member of the clergy or any lay member of the Church of Ireland who has a proper interest may bring to the attention of the Complaints Administrator any complaint in respect of a bishop by means of a written submission signed by such person.
- (c) Any such written submission must be accompanied by the sum of £600 or €1,000 (or such other sum as the Rules Committee may from time to time prescribe). Such sum shall be held by the Complaints Administrator and shall be returned to the Complainant unless the Complaint is dismissed pursuant to section 27(a), 28(a) or the Complaints Committee is of the opinion that a prima facie case has not been made out in respect of the Complaint. Where such a written submission is made by a lay member or members of the Church of Ireland, it must incorporate a written confirmation on the part of each such lay member that he or she is a member of the Church of Ireland.

27 Processing of Complaints in respect of Members of the Clergy by the Complaints Administrator

- (a) If the Complaints Administrator is of the opinion that a Complaint made in respect of a member of the clergy discloses no reasonable grounds upon which a case could be made that the member of the clergy is liable to disciplinary action under this Part of this Chapter then, subject to obtaining the written approval of either the chairperson or vice chairperson of the Complaints Committee, the Complaints Administrator may dismiss the Complaint. Such a dismissal shall not be a defence to a subsequent Complaint in relation to the same or substantially the same matters.
- (b) Unless a Complaint made in respect of a member of the clergy has been dismissed under section 27(a) or the relevant bishop has already determined that pastoral resolution in accordance with section 19 has not been possible or is not appropriate, the Complaints Administrator shall convey details of the Complaint to the bishop of the diocese in which the member of the clergy against whom the Complaint has been made is beneficed or licensed for pastoral resolution in accordance with section 19.
- (c) If and when a bishop determines that pastoral resolution of a Complaint in respect of a member of the clergy which has been referred to the bishop for pastoral resolution in accordance with section 19 is not possible or not appropriate, the Complaints Administrator shall convey such Complaint made to the Complaints Committee.

- (d) The bishop of the diocese in which the member of the clergy against whom a Complaint has been made is beneficed or licensed may, if the bishop considers it proper to do so, suspend from office that member of the clergy until such time as all disciplinary proceedings under this Part of this Chapter relating to that Complaint have been finally completed. Any member of the clergy so suspended may continue to reside in the glebe house and shall be entitled to a full stipend for the period of such suspension and such expenses as the bishop may determine. He or she must, however, if so required by the relevant bishop, deliver up to the bishop all books, keys and other property held by him or her by virtue of his or her office as are necessary to enable any member of the clergy, appointed by the bishop to look after the benefice during his or her period of suspension, to carry out his or her functions.

28 Processing of Complaints in respect of a Bishop by the Complaints Administrator

- (a) Where a Complaint is made against a bishop or archbishop, the Complaints Administrator shall, in the first instance, consult with the archbishop of the province, or in the case of an archbishop, the archbishop of the other province, and together they shall determine whether reasonable grounds have been disclosed upon which a case could be made that the bishop or archbishop is liable to disciplinary action under this Part of this Chapter. If they are of the opinion that the Complaint discloses no reasonable grounds then, subject to obtaining the written approval of either the chairperson or vice chairperson of the Complaints Committee, the Complaints Administrator may dismiss the Complaint. Such a dismissal shall not be a defence to a subsequent complaint in relation to the same or substantially the same matters.
- (b) Unless a Complaint made in respect of a bishop has been dismissed under section 28(a) or the relevant archbishop has already determined that pastoral resolution in accordance with section 19 has not been possible or is not appropriate, the Complaints Administrator shall convey details of the Complaint to the archbishop of the relevant province or, in the case of an archbishop, the other province for pastoral resolution in accordance with section 19.
- (c) If and when an archbishop determines that pastoral resolution of a Complaint in respect of a bishop which has been referred to the archbishop for pastoral resolution in accordance with section 19 is not possible or not appropriate, the Complaints Administrator shall convey such Complaint made to the Complaints Committee.
- (d) The archbishop of the relevant province (or, in the case of a Complaint made against an archbishop, the archbishop of the other province) may, if the archbishop considers it proper to do so, suspend a bishop against whom a Complaint has been made from office until such time as all disciplinary proceedings under this Part of this Chapter relating to that Complaint have been finally completed. Any bishop so suspended may continue to reside in the see house and shall be entitled to a full stipend for the period of such suspension. The bishop must, however, if so required by the relevant archbishop, deliver up all books, keys and other property held by the bishop by virtue of the bishop's office.

29 Investigation of Complaints by the Complaints Committee

- (a) Where a Complaint has been conveyed to the Complaints Committee by the Complaints Administrator, the Complaints Committee shall investigate the Complaint in order to decide whether or not a prima facie case has been made out that the bishop or the member of the clergy concerned is liable to disciplinary action under this Part of this Chapter.

- (b) Before reaching a decision as to whether or not such a prima facie case has been made out, the Complaints Committee shall:
 - (i) provide to the bishop or member of the clergy concerned, where the Complaint has been brought to the attention of the Complaints Administrator in writing, a copy of such writing and, where the Complaint was brought to the attention of the Complaints Administrator otherwise than in writing or came to the attention of the Complaints Administrator otherwise than as a result of a Complaint made by a Complainant, a synopsis prepared by the Complaints Administrator of the Complaint together with brief details of the material then before the Committee and upon which it proposes to base its decision as to whether or not a prima facie case has been made out; and
 - (ii) give the bishop or member of the clergy concerned an opportunity of making such written representations to it as he or she may consider appropriate to the deliberations of the Committee.
- (c) In addition the Complaints Committee may, in its absolute discretion, give the bishop or member of the clergy concerned, the Complainant and the Complaints Administrator an opportunity of being heard before it. If the Complaints Committee gives any of such persons such an opportunity it shall offer a like opportunity to the other(s) of them.
- (d) If the Complaints Committee is of the opinion that a prima facie case has not been made out in respect of any Complaint, it shall so notify in writing the bishop or member of the clergy concerned, the Complainant and the Complaints Administrator.
- (e) If the Complaints Committee is of the opinion that a prima facie case as aforesaid has been made out, it may in its absolute discretion:
 - (i) decide that no further action be taken on the Complaint or any specified part of it; or
 - (ii) decide that, notwithstanding such prima facie case, further consideration of the whole or part of the Complaint be deferred on such terms and conditions as it considers appropriate; or
 - (iii) deal with the whole or part of the Complaint by way of a consent order under section 30; or
 - (iv) refer the Complaint to mediation in such manner as the Committee may direct; or
 - (v) refer the whole or part of the Complaint to a Disciplinary Tribunal as a Formal Complaint in terms formulated by the Committee,

and the Complaints Committee shall notify, in writing, the bishop or member of the clergy concerned, the Complainant and the Complaints Administrator that a prima facie case has been made out against the bishop or member of the clergy concerned, and which course of action, of those listed in this section, the Complaints Committee intends to take.

30 Consent Orders

- (a) Where the Complaints Committee decides to deal with a Complaint by way of a consent order the provisions of this section shall apply.
- (b) The Complaints Committee may, with the agreement of the bishop or the member of the clergy concerned, make any one or more of the orders which, on finding a Formal Complaint proved, a Disciplinary Tribunal would have power to make in respect of a Respondent.
- (c) Any such order may be made upon such terms and conditions (if any) as the Complaints Committee may, in its absolute discretion, consider appropriate.
- (d) Before making any order under section 30(b) the Complaints Committee shall serve on the bishop or member of the clergy concerned a notice describing the order which it would make if the bishop or member of the clergy agrees.

- (e) A notice under section 30(d) must:
 - (i) explain the extent to which the finding of the Complaints Committee would be published and/or otherwise communicated to others; and
 - (ii) state that, if the bishop or member of the clergy does not agree in writing to the proposed action within a stated period, of not less than fourteen days, the Complaint will be referred to the Disciplinary Tribunal as a Formal Complaint.
- (f) If, within the period stated in the notice (or such extended period, if any, as the Complaints Committee, in its absolute discretion, may allow), the bishop or member of the clergy concerned agrees in writing to the Complaints Committee proceeding as proposed in the notice, the Committee shall make the order specified in the notice unless, having regard to any further information which it has received, it is of the opinion:
 - (i) that a lesser or no sanction is appropriate, in which case it shall impose a lesser or no sanction, as the case may be;
 - (ii) that a smaller or no sum is appropriate by way of costs, in which case it shall order a smaller sum to be paid by way of costs or make no order as to costs, as the case may be;
 - (iii) that no prima facie case exists, in which case it shall so find; or
 - (iv) that a greater sanction is appropriate, in which case before taking any order that goes beyond that described in the notice served under section 30(d) it shall serve on the member of the clergy concerned a supplemental notice identifying the further information and indicating the alternative order the Complaints Committee intends making.
- (g) If the bishop or member of clergy concerned does not, within the period stated in the notice or supplemental notice (or such extended period as the Complaints Committee in its absolute discretion may have allowed), agree in writing to the Complaints Committee proceeding as proposed in such notice, the Complaints Committee shall refer the Complaint as a Formal Complaint to the Disciplinary Tribunal.
- (h) The Complaints Committee may publish details of each consent order made by it in the Journal of the General Synod, and may otherwise publish or communicate details of any consent order in such manner as it in its absolute discretion thinks fit.

31 Disciplinary Tribunals

- (a) When a Formal Complaint is referred to a Disciplinary Tribunal by the Complaints Committee, the chairperson of the Disciplinary Panel or, failing him or her, the vice-chairperson of such Panel shall appoint a Disciplinary Tribunal from, except for any bishop appointed, the members of the Disciplinary Panel to hear the Formal Complaint. The Tribunal shall consist of a Lawyer as chairperson and one member of the clergy (or, where the Respondent is a bishop, one bishop nominated by the House of Bishops) and one layperson. No former member of the Complaints Committee who has been concerned with the Complaint which is the subject of the Formal Complaint shall be eligible for appointment to such Disciplinary Tribunal. No person who is ordinarily resident in the diocese in which the Respondent is beneficed or licensed shall be eligible for appointment to such Disciplinary Tribunal.
- (b) If, for any reason, prior to the time fixed for the hearing of the Formal Complaint, any member of the Tribunal becomes unable to act, the chairperson or, failing him or her, the vice-chairperson of the Disciplinary Panel shall co-opt another eligible person from the Disciplinary Panel to act in his or her place.

- (c) If, for any reason, any member of the Disciplinary Tribunal (other than the chairperson thereof) is, during the course of the hearing, unable to continue to attend the hearing, the remaining members, provided that they are not less than two in number, may continue with the hearing, but if the Respondent is present they shall do so only if he or she consents. Save as aforesaid the Formal Complaint shall be re-heard by a new Disciplinary Tribunal appointed by the chairperson or, failing him or her, the vice-chairperson of the Disciplinary Panel in accordance with section 31(a).
- (d) If at any time during the hearing of a Formal Complaint, the Disciplinary Tribunal is of the opinion that it is for any reason inappropriate for it to complete the hearing, the chairperson or failing him or her, the vice-chairperson of the Disciplinary Panel shall appoint a new Disciplinary Tribunal to re-hear the Formal Complaint.
- (e) Where a Formal Complaint is re-heard pursuant to sections 31(c) or 31(d), none of the members of the original Tribunal may be appointed to the new Tribunal.

32 Consideration of Formal Complaints by Disciplinary Tribunal

- (a) As soon as practicable after its appointment, the Disciplinary Tribunal shall notify the Respondent, the Complaints Committee and, if there is one, the Complainant of the time (which shall not be sooner than 42 days from the date of such Notification) and place fixed for the hearing of the Formal Complaint.
- (b) The Disciplinary Tribunal shall give the person or persons presenting and prosecuting the Formal Complaint the opportunity of:
 - (i) attending and being heard at the hearing of the Formal Complaint;
 - (ii) adducing documentary evidence;
 - (iii) calling witnesses (including, if desired, any Complainant) to give evidence;
 - (iv) cross-examining witnesses called by the Respondent; and
 - (v) making such submissions as he or she wishes to the Disciplinary Tribunal.
- (c) The Disciplinary Tribunal shall give the Respondent the opportunity of:
 - (i) attending and being heard at the hearing of the Formal Complaint;
 - (ii) if he or she so desires, being represented before the Disciplinary Tribunal by a member of the clergy, a solicitor or a barrister;
 - (iii) in addition to being given in advance of the hearing the material as provided for under section 32(e), hearing the evidence against him or her;
 - (iv) cross-examining witnesses called by the person or persons presenting and prosecuting the Formal Complaint in accordance with section 32(h);
 - (v) adducing documentary evidence;
 - (vi) calling witnesses to give evidence on his or her behalf; and
 - (vii) making such submissions as he or she wishes to the Disciplinary Tribunal.
- (d) The Complainant who made the Complaint giving rise to a Formal Complaint may attend any hearing of the Disciplinary Tribunal relating to that Complaint even if the Tribunal determines that the hearing shall be held in private. Any Complainant attending a hearing shall do so as an observer only and shall not have any right of audience save as provided in section 37(c).

- (e) At least fourteen days in advance of the hearing, the Complaints Administrator shall deliver to the Respondent copies of or a summary of any documents or other materials, if any, which, in addition to those made available to the Respondent under section 29(b), the person presenting and prosecuting the Formal Complaint intends to rely on, and a list of such witnesses as he or she proposes calling at the hearing.
- (f) At least seven days in advance of the hearing, the Respondent shall deliver to the Complaints Administrator a summary of the arguments to be presented in his or her defence, together with copies of such supporting documents as he or she proposes to rely on, and a list of such witnesses as he or she proposes calling on his or her behalf at the hearing. However, no failure by the Respondent to comply with this section 32(f) shall restrict the Respondent's rights under section 32(b). The Respondent shall not be precluded from raising any argument or relying on any document which was not included in the material so delivered or calling any witness who was not included in the list of witness so delivered.
- (g) If the Respondent does not attend the hearing fixed as aforesaid, then, the Tribunal may, in its absolute discretion, either:
 - (i) provided the Disciplinary Tribunal is satisfied that notice of that hearing was given to the Respondent, proceed to hear the Formal Complaint in the absence of the Respondent; or
 - (ii) adjourn the hearing to such other date, venue and time as the Tribunal may in its absolute discretion, determine.

If it does so adjourn the hearing, the Disciplinary Tribunal shall give to the Respondent notice of the adjourned hearing.

- (h) The Complaints Committee may:
 - (i) appoint a solicitor or another suitable person; or
 - (ii) instruct a solicitor to brief counsel,

to present and prosecute such Formal Complaint before the Disciplinary Tribunal appointed to hear such Formal Complaint and to appear on any appeal therefrom before the Appeal Tribunal appointed to hear such appeal.
- (i) A Disciplinary Tribunal may instruct a solicitor to act, or to brief counsel to act, as legal assessor on the hearing of any Formal Complaint.
- (j) A Formal Complaint may only be withdrawn with the consent of the Disciplinary Tribunal appointed to hear that Formal Complaint.
- (k) A Disciplinary Tribunal may, on the application of the person or persons appointed under section 32(h), agree to the amendment of the terms of a Formal Complaint, provided it is satisfied that the Respondent would not be unfairly prejudiced thereby.
- (l) If, during the course of hearing a Formal Complaint, it becomes apparent to a Disciplinary Tribunal that the Respondent may be liable to disciplinary action in accordance with this Part of this Chapter in relation to matters not the subject matter of the Formal Complaint, it may amend the terms of the Formal Complaint to include those additional matters or it may bring those matters to the attention of the Complaints Administrator. If a Disciplinary Tribunal decides to amend a Formal Complaint it may, on the application of the Respondent or the person or persons appointed under section 32(h), adjourn the hearing for such period of time as may seem fit in the circumstances.
- (m) A Disciplinary Tribunal shall have a general discretion to grant extensions and abridgments of time, adjournments and postponements where it considers it fair and proper to do so.

33 Findings and Orders of Disciplinary Tribunals

- (a) If a Disciplinary Tribunal appointed to hear a Formal Complaint finds that the Formal Complaint has been proved in whole or in part in accordance with the standard of proof applicable in accordance with section 33(b), it shall make a finding to that effect; but if it finds that the Formal Complaint has not been proved in accordance with such applicable standard of proof, it shall dismiss the Formal Complaint.
- (b) Subject to section 33(c), a Formal Complaint against a Respondent shall not be proved in whole or in part unless and until it has been proved by the Complaints Committee to the satisfaction of the Disciplinary Tribunal in accordance with the standard of proof applicable under this section. The standard of proof applicable shall be proof on the balance of probabilities.
- (c) If, in any proceedings before a Disciplinary Tribunal, it is proved that a member of the clergy has been found guilty of any crime for the time being punishable by law in any part of Ireland he or she shall be taken to have committed that crime unless the contrary is proved.
- (d) If a Disciplinary Tribunal makes a finding that a Formal Complaint has been proved in whole or in part, it may make any one or more of the following orders against the Respondent as it considers appropriate having regard to the status of the Respondent, the Tribunal's views as to the nature and seriousness of the Formal Complaint, any previous Complaint in respect of which a finding or a finding and an order have been made against the Respondent and any other circumstances that the Tribunal considers relevant:
 - (i) an order that no further action be taken on the Formal Complaint;
 - (ii) an order admonishing the Respondent;
 - (iii) an order severely admonishing the Respondent;
 - (iv) an order temporarily depriving the Respondent (who is a member of the clergy) of the Respondent's office;
 - (v) an order depriving the Respondent (who is a member of the clergy) of the Respondent's office;
 - (vi) an order deposing the Respondent (who is a member of the clergy) from holy orders;
 - (vii) an order temporarily depriving the Respondent (who is a bishop) of the Respondent's office; and
 - (viii) an order permanently depriving the Respondent (who is a bishop) of the Respondent's office.
- (e) If a Disciplinary Tribunal temporarily deprives a Respondent of his or her office it may also:
 - (i) order the Respondent to deliver up all books, keys, and other property held by him or her by virtue of his or her office for the duration of the suspension; and / or
 - (ii) order that any moneys payable as stipend to the Respondent shall be sequestered for such period and subject to such conditions as the Disciplinary Tribunal may think fit.
- (f) A Disciplinary Tribunal may make an order requiring the Respondent to do or to refrain from doing an act.
- (g) A Disciplinary Tribunal may also make an order for costs in accordance with section 38.
- (h) Any such order as is referred to in sections 33(d), 33 (e), 33 (f) and 33 (g) may be made upon such terms and conditions (if any) as the Disciplinary Tribunal may in its absolute discretion, consider appropriate.

- (i) Subject to section 34(i), an order of the Disciplinary Tribunal shall take effect from the expiry of the appeal period referred to in section 34(c). Notice of any finding or order of the Disciplinary Tribunal shall as soon as practicable be given to the Respondent and, if there is one, to the Complainant and to the Complaints Committee.
- (j) Details of each order made by a Disciplinary Tribunal shall be published in the Journal of the General Synod.
- (k) A copy of all pleadings and documents filed in any proceedings before a Disciplinary Tribunal shall be filed of record in the registry maintained by the Complaints Administrator. All such pleadings and documents shall be open to inspection by the parties to the proceedings in question and, at the discretion of the Complaints Committee, to any other person.

34 Appeals and Appointment of Appeal Tribunal

- (a) A Respondent may appeal against a finding or order of a Disciplinary Tribunal on the grounds that:
 - (i) the finding is wrong; and / or
 - (ii) the order is excessive; and / or
 - (iii) the finding and / or the order is flawed because of a serious procedural or other irregularity in the proceedings before the Disciplinary Tribunal.
- (b) No appeal shall lie in respect of a matter of doctrine or ritual on which the House of Bishops has issued a statement in accordance with section 39.
- (c) If a Respondent wishes to appeal a finding or order of a Disciplinary Tribunal, he or she must within 21 days (or such longer period as the Disciplinary Tribunal may allow) of the date of the service upon him or her of such order, give notice of appeal to the chairperson of the Disciplinary Panel. Any such notice shall state the grounds of appeal and the grounds so stated shall not thereafter be amended except with the leave of the Appeal Tribunal appointed to hear such appeal.
- (d) The chairperson or, failing him or her, the vice-chairperson of the Disciplinary Panel shall as soon as practicable after the receipt of such notice of appeal appoint an Appeal Tribunal from, except for any bishops appointed, the members of the Disciplinary Panel. Where the Appellant is a member of the clergy the Appeal Tribunal shall consist of a lawyer as chairperson, one layperson and one member of the clergy. Where the Appellant is a bishop, the Appeal Tribunal shall consist of a lawyer as chairman, two laypersons and two bishops nominated by the House of Bishops. No former member of the Complaints Committee or Disciplinary Panel who has been concerned with the Complaint or Formal Complaint which is the subject of the appeal shall be eligible for appointment to such Appeal Tribunal. No person who is ordinarily resident in the diocese in which the Appellant is beneficial or licensed shall be eligible for appointment to such Appeal Tribunal.
- (e) If, for any reason, prior to the time fixed for the hearing of the Appeal, any member of the Appeal Tribunal becomes unable to act, the chairperson or, failing him or her, the vice-chairperson of the Disciplinary Panel shall co-opt another eligible person from the Disciplinary Panel to act in his or her place.
- (f) If, for any reason, any member of the Appeal Tribunal (other than the chairperson thereof) is, during the course of the hearing, unable to continue to attend the hearing, the remaining members, provided that they are not less than three in number, may continue with the hearing, but if the Appellant is present they shall do so only if he or she consents. Save as aforesaid the appeal shall be re-heard by a new Appeal Tribunal appointed by the chairperson or, failing him or her, the vice-chairperson of the Disciplinary Panel.

- (g) If at any time during the course of the hearing of an appeal the Appeal Tribunal is of the opinion that it is for any reason inappropriate for it to complete the hearing, the chairperson or, failing him or her, the vice-chairperson of the Disciplinary Panel shall appoint a new Appeal Tribunal to re-hear the appeal.
- (h) Where an appeal is re-heard pursuant to sections 34(f) or 34(g), none of the members of the original Appeal Tribunal may be appointed to the new Appeal Tribunal.
- (i) If notice of appeal is served on the chairperson of the Disciplinary Panel in accordance with section 34(c) the order of Disciplinary Tribunal shall not have effect until the appeal has been withdrawn or determined and, where determined, it shall only have effect in accordance with the order of the Appeal Tribunal.

35 Hearing of Appeals by Appeal Tribunal

- (j) As soon as practicable after its appointment, the Appeal Tribunal shall notify the Appellant, the Complaints Committee and, if there is one, the Complainant of the time (which shall not be sooner than 42 days from the date of such notification) and place fixed for the hearing of the appeal.
- (k) Unless the Appellant, the Complaints Committee and the Appeal Tribunal agree otherwise, appeals shall be conducted and heard as follows:
 - (i) in the case of an appeal on the grounds set out in section 34(a)(i) (or an appeal which includes those grounds), the appeal (or that part of the appeal, as the case may be) on such grounds shall be by way of re-hearing and shall be conducted and heard as though at first instance, in which case, the Complaints Committee shall first present its case to the Appeal Tribunal with the same burden and standard of proof as applied before the Disciplinary Tribunal and the Appellant may then present its case; and
 - (ii) in the case of an appeal made on the grounds set out in sections 34(a)(ii) or 34(a)(iii) (or an appeal which includes those grounds), the appeal (or that part of the appeal, as the case may be) on such grounds shall be heard in such manner as the Appeal Tribunal appointed to hear such appeal may, in its absolute discretion, direct.

The Appeal Tribunal appointed to hear an appeal may, in its absolute discretion, admit any evidence not presented at the hearing of the Formal Complaint by the Disciplinary Tribunal. If either the Appellant or the Complaints Committee wish to introduce any new evidence not presented at the hearing of the Formal Complaint by the Disciplinary Tribunal they shall give the other and the Disciplinary Tribunal notice of such desire at least 14 days prior to the date set for the hearing of the appeal.

- (l) The Appeal Tribunal shall give the Appellant the opportunity of:
 - (i) attending and being heard at the hearing of appeal;
 - (ii) if he or she so desires, being represented before the Appeal Tribunal by a member of the clergy, a solicitor or a barrister;
 - (iii) hearing the evidence put forward by or on behalf of the Complaints Committee;
 - (iv) cross-examining witnesses called by the person or persons appointed under section 32(h);
 - (v) adducing documentary evidence;
 - (vi) calling witnesses to give evidence on his or her behalf; and
 - (vii) making such submissions as he or she wishes to the Appeal Tribunal.
- (m) The Appeal Tribunal shall give the Complaints Committee the opportunity of:
 - (i) attending and being heard at the hearing of the appeal;

- (ii) adducing documentary evidence;
 - (iii) calling witnesses (including, if desired, any Complainant) to give evidence;
 - (iv) cross-examining witnesses called by the Appellant; and
 - (v) making such submissions as they wish to the Appeal Tribunal.
- (n) The Complainant who made the Complaint giving rise to the appeal may attend at the hearing of the appeal even if the Appeal Tribunal determines that the hearing shall be held in private. Any Complainant attending a hearing shall do so as an observer and shall have no right of audience save as provided in section 37(c).
- (o) If the Appellant does not attend the hearing fixed as aforesaid, then the Appeal Tribunal may, in its absolute discretion, either:
- (i) provided that the Appeal Tribunal is satisfied that notice of that hearing was given to the Appellant or Appellants, dismiss the appeal; or
 - (ii) adjourn the appeal hearing to such other date, venue and time as it may, in its absolute discretion, determine.

If it does so adjourn the hearing, the Appeal Tribunal shall give to the Appellant notice of the dismissal and / or adjourned hearing.

- (p) If the Appeal Tribunal dismisses an appeal pursuant to section 35(f) and the Appellant applies to have the appeal re-listed for hearing within 21 days of the Notice of Dismissal being sent to the Appellant, the Appeal Tribunal may re-list the appeal if, in its absolute discretion, it is satisfied that the non-attendance of the Appellant at the appeal was for some reason which merits the reversal of the dismissal.
- (q) The Appeal Tribunal may instruct a solicitor to act, or to brief counsel to act, as legal assessor on the hearing of any appeal.
- (r) An appeal may only be withdrawn with the consent of the Appeal Tribunal appointed to hear that appeal.
- (s) If, during the course of hearing an appeal, it becomes apparent to an Appeal Tribunal that the Appellant may be liable to disciplinary action in accordance with this Part of this Chapter in relation to matters not the subject matter of the appeal, it may bring those matters to the attention of the Complaints Administrator.
- (t) An Appeal Tribunal shall have a general discretion to grant extensions and abridgments of time, adjournments and postponements where it considers it fair and proper to do so.

36 Orders of Appeal Tribunal

- (a) On any appeal, the Appeal Tribunal may affirm, vary or rescind any finding or order of the Disciplinary Tribunal in respect of which the appeal was brought, and may substitute any other finding or order (on such terms and conditions (if any) as it, in its absolute discretion, considers appropriate) which the Disciplinary Tribunal might have made on the original Formal Complaint, or may, if the Appeal Tribunal, in its absolute discretion, considers it appropriate, order that the Formal Complaint which resulted in the finding or order of the Disciplinary Tribunal in respect of which the appeal was brought be heard de novo by a different Disciplinary Tribunal. An Appeal Tribunal may also make an order for costs under section 38.
- (b) An order of the Appeal Tribunal shall take effect as from the date thereof unless the Appeal Tribunal, in its absolute discretion, directs that it shall take effect from some other date (not being earlier than the date of the order appealed against) as shall be specified in the order.

- (c) Notice of any finding or order of the Appeal Tribunal shall as soon as practicable be given to the Appellant, and, if there is one, to the Complainant and to the Complaints Committee.
- (d) Details of each order made by an Appeals Tribunal shall be published in the Journal of the General Synod.
- (e) A copy of all pleadings and documents filed in any proceedings before an Appeal Tribunal shall be filed of record in the registry maintained by the Complaints Administrator. All such pleadings and documents shall be open to inspection by the parties to the proceedings in question and, at the discretion of the Complaints Committee, to any other person.

37 Hearings of Tribunals to be in Public

- (a) All hearings by a Disciplinary Tribunal or an Appeal Tribunal may be held in public unless:
 - (i) not later than 14 days before the date set for the hearing, an application is made to the Tribunal by the Complainant, the Respondent or Appellant (as the case may be) or the Complaints Committee to have the hearing or part of it held in private; and
 - (ii) the Tribunal, in its absolute discretion, determines that the holding in public of any hearing or any part thereof would be inappropriate.

If the Tribunal determines that any hearing or any part thereof should not be held in public, then that hearing or the relevant part thereof shall be held in private.

- (b) On receipt of an application under section 38(a), the Tribunal will inform the Complainant, the Respondent or Appellant (as the case may be) and the Complaints Committee of the fact that application has been made to the Tribunal to have the whole or part of the hearing held in private and invite the said persons (and any other person it considers may be affected) to make such written submissions, if any, as they wish on the issue of whether or not the hearing, or the part of the hearing in issue, should be heard otherwise than in public.
- (c) In addition the Tribunal may, in its absolute discretion, give each of the Respondent or Appellant (as the case may be), the Complainant and the Complaints Committee (and any other person it considers may be affected) an opportunity of being heard before it in relation to whether or not the hearing or any part thereof should be heard in private. If the Tribunal gives any of such persons such an opportunity it shall offer a like opportunity to the other or others of them. Any such hearing shall be in private.
- (d) A Tribunal shall not consider an application to have a hearing held in private which is brought otherwise than in accordance with the provisions of this section 37 and, in particular, shall not consider an application which is not brought within the time period specified in section 37(a).
- (e) A Tribunal may require any person attending a hearing (whether held in public or private) to give their name and address.
- (f) A Tribunal may expel from a hearing any person who is or becomes disruptive to the proceedings of such Tribunal or who fails to comply with section 37(e).

38 Costs

- (g) In addition to such other orders as may be made by a Disciplinary Tribunal or an Appeal Tribunal (including an order that no further action be taken) a Disciplinary Tribunal or an Appeal Tribunal may, in its absolute discretion, direct that the Respondent or Appellant, as the case may be, pay the Complaints Committee such sum for costs as the Tribunal may, in its absolute discretion, determine.

- (h) In determining such sum for costs:
 - (i) the Disciplinary Tribunal may take account of any and all fees, costs and expenses of whatsoever nature incurred by or on behalf of the Disciplinary Bodies, in relation to the Complaint and Formal Complaint; and
 - (ii) the Appeal Tribunal may take account of such fees, costs and expenses as the Disciplinary Tribunal may take account of and also any and all fees, costs and expenses incurred by or on behalf of the Disciplinary Bodies in relation to the appeal.
- (i) Any such costs shall be paid within twenty-one days of the date of the service upon the Respondent or Appellant, as the case may be, of the order in respect of costs save that if notice of appeal in accordance with section 34(c) is given costs awarded by a Disciplinary Tribunal shall not be payable until the determination of the appeal, and then subject to any order made by the Appeal Tribunal in relation thereto.
- (j) Any sum payable under any order for costs shall be deemed to be a contract debt due from the Respondent or Appellant in question to the Complaints Committee and shall be recoverable by action.
- (k) Save as provided in section 38(f), neither a Respondent nor an Appellant, as the case may be, shall be entitled to any award of costs as against any Disciplinary Body or any other party whatsoever in relation to any fees, costs and expenses of whatsoever nature incurred by or on behalf of the Respondent or the Appellant, as the case may be, in relation to the Complaint, Formal Complaint or the appeal.
- (l) If a Complaint is found not proven in whole or in part, the Respondent or the Appellant (as the case may be) may apply to the Disciplinary Tribunal or the Appeal Tribunal for his or her costs. However, costs do not automatically follow the event. The Disciplinary Tribunal or the Appeal Tribunal may order the payment in favour of the Respondent or the Appellant out of the General Purposes Fund of such sum for costs as the Disciplinary Tribunal or the Appeal Tribunal may determine, up to the maximum level as decided upon from time to time by the Representative Body, upon consideration of the following factors:
 - (i) the extent to which the Disciplinary Bodies acted reasonably in the exercise of their respective duties;
 - (ii) the financial prejudice to the Respondent or Appellant concerned if an order for costs was not to be made in his or her favour;
 - (iii) whether it is just and reasonable to award costs; and
 - (iv) the need for the Disciplinary Bodies to make reasonable and apparently sound decisions without the General Synod suffering financial prejudice if those decisions are successfully challenged.

Payment of any sum so ordered to be paid out of the General Purposes Fund may, in the light of the resources available to the General Purposes Fund and the other demands on it, be deferred and paid over such period of time as the Representative Body may consider is reasonable in the circumstances.

- (m) An Appeal Tribunal may, in its order, reduce or increase any costs ordered by the Disciplinary Tribunal in addition to any order it may make in relation to the costs of the appeal.

39 Matters of Doctrine and Ritual

- (a) Where, in any matter which may be before a Disciplinary or Appeal Tribunal, a question relating to the doctrine or ritual of the Church of Ireland arises that Tribunal shall, if it considers that an understanding of the doctrine or ritual concerned is necessary to enable it to make a ruling on the matter, request the House of Bishops to issue a statement setting out the collective understanding of the House of Bishops of the current and orthodox position of the Church of Ireland on such doctrine and ritual.
- (b) A Disciplinary Tribunal or Appeal Tribunal which has made a request to the House of Bishops in accordance with section 39(a) shall adjourn, in such manner as it thinks fit, the hearing of the matter that has given rise to such request until the House of Bishops has given its statement.
- (c) The terms of the request to the House of Bishops will be settled by agreement between the Respondent or Appellant (as the case may be) on the one hand and the person or persons appointed under section 32(h) on the other hand with the approval of the relevant Tribunal or, in default of agreement, by the relevant Tribunal. Once settled the request will be signed by the chairperson of the Tribunal and forwarded to the secretary to the House of Bishops.
- (d) The Respondent or, as the case may be, the Appellant and the person or persons appointed under 32(h) shall be entitled to make written submissions to the House of Bishops on the subject matter of the request.
- (e) On receipt of a request under this section the House of Bishops shall meet to consider such request and, having considered any written submissions made to it and followed whatever procedures, in its absolute discretion, it considers appropriate, shall give its statement in writing on the request. Where the matter giving rise to the request involves a bishop, such bishop shall not partake in the consideration by the House of Bishops of the question of doctrine or ritual that arises.
- (f) The statement of the House of Bishops on a request made in accordance with this section shall be binding on the Respondent or, as the case may be, the Appellant and the Tribunal concerned solely in respect of the matter under consideration by the Tribunal.

40 Register

- (g) The Complaints Administrator shall maintain a register of all orders made by any Disciplinary Tribunal and any Appeal Tribunal. Such register will be open to inspection by members of the public during normal opening hours at the Representative Church Body Library.
- (h) If any person believes that an error has been made in any entry in such register, he or she may apply to the Complaints Administrator to have the error rectified. If the Complaints Administrator determines that an error has been made the Complaints Administrator shall duly rectify the register.

41 Indemnity

- (i) The members of the Disciplinary Bodies shall be indemnified by the Representative Body from all losses and expenses incurred by them in or about the discharge of their respective duties, except for any loss or expense as happen from their own respective wilful act, neglect or default.
- (j) No member of a Disciplinary Body shall be liable for any act, omission or default of any other member of a Disciplinary Body unless the same happens from his or her own wilful act, neglect or default.

42 Transitional Provisions

- (k) Any proceedings commenced before a Diocesan Court or the Court of the General Synod before 1 January 2009 shall continue to be governed by the provisions in that behalf of the Constitution of the Church of Ireland as were in force immediately prior to that date.
- (l) Notwithstanding anything in this Part of this Chapter, no sanction may be imposed on a bishop or a member of the clergy by a Disciplinary Tribunal or by an Appeal Tribunal, which was not provided for in the Constitution of the Church of Ireland effective at the time the event, which rendered such bishop or member of the clergy liable to such sanction, occurred.
- (m) No bishop or member of the clergy may be subject to disciplinary action on grounds that would not have rendered the bishop or member of the clergy in question liable to disciplinary action under the Constitution of the Church of Ireland effective at the time the alleged event, giving rise to such disciplinary action, occurred.

APPENDIX A**FORM OF PETITION**

In the Diocesan Court of
may be].

[*or* In the Court of the General Synod, *as the case*

A. B., Petitioner.
C. D., Respondent.

I, A.B. of _____, a member of the Church of Ireland and having agreed to submit to the authority of the Church of Ireland and the laws and tribunals thereof, petitioner, do hereby seek the following relief [*here state the relief sought*]

I seek that relief on the following grounds, that is to say [*here state the grounds*],

A. B., petitioner.

Dated this _____ day of _____ .

APPENDIX B**FORM OF APPEAL**

In the Court of the General Synod.

A. B., Appellant.
C. D., Respondent.

I, A. B., the respondent [*or* petitioner, *as the case may be*], in a cause in the Diocesan Court of the dioceses of _____, in which C.D., now of _____, herein named as respondent, was petitioner [*or* respondent, *as the case may be*], do hereby appeal from the judgment or order of the said Diocesan Court, pronounced in the said cause on the _____ day of _____, upon the following grounds, that is to say [*here state the grounds of the appeal*,]. And having lodged £ _____ / € _____ as security for the costs and expenses, I require my appeal to be heard by the Court of the General Synod.

A. B., appellant.

Dated this _____ day of _____ .

SCHEDULE II

AMENDMENTS TO SEVERAL CHAPTERS OF THE CONSTITUTION OF THE CHURCH OF IRELAND

1. For section 31 (1) (b) of Chapter IV there shall be substituted:

‘(b) a judgment of the Court of General Synod under section 34 of this Chapter or an order made by a Disciplinary Tribunal under section 32 (d) (v) or (vi) of Chapter VIII or an order made by an Appeal Tribunal under section 35 of Chapter VIII.’

2. For section 43 of Chapter IX there shall be substituted:

‘43. Penalty for wilful breach of any Canon

Any lay member of the Church of Ireland accused of any violation of those Canons may be charged before the Court of General Synod or the Diocesan Court (as the circumstances of the case may require) in accordance with the provisions of the Constitution.’

3. In section 23 of Chapter XIV for the words ‘courts of the Church of Ireland’ there shall be substituted the words ‘courts and tribunals of the Church of Ireland.’