STATUTORY INSTRUMENTS

# 2021 No. 840

# ECCLESIASTICAL LAW, ENGLAND

## The Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 2021

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| *Made - - - -* | *13th July 2021* |
| *Laid before Parliament* | *27th July 2021* |
| *Coming into force in accordance with regulation 1(2) and (3)* | |

The Archbishops' Council makes the following Regulations in exercise of the powers conferred by section 2 of the Ecclesiastical Offices (Terms of Service) Measure 2009(**a**) and in accordance with paragraph 12A of Schedule 1 to the National Institutions Measure 1998(**b**) and section 11(6) and (7) of the Church of England (Miscellaneous Provisions) Measure 2018(**c**):

## PART 1

### PRELIMINARY

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 2021.

(2) This Part and Parts 3 and 4 come into force on the day after the day on which these Regulations are laid before Parliament.

(3) Part 2 of these Regulations comes into force in relation to each cathedral to which the Cathedrals Measure 2021(**d**) applies on the day on which the provisions referred to in section 53(3) of that Measure come into force in relation to that cathedral.

(4) In these Regulations, "the Terms of Service Regulations" means the Ecclesiastical Offices (Terms of Service) Regulations 2009(**e**).

(**a**) 2009 No. 1. Section 2 was amended by section 6(7) of the Church of England (Miscellaneous Provisions) Measure 2018.
(**b**) 1998 No. 1. Paragraph 12A of Schedule 1 was inserted by section 11(4) of the Church of England (Miscellaneous Provisions) Measure 2018.
(**c**) 2018 No. 7.
(**d**) 2021 No. 2.
(**e**) S.I. 2009/2108.

# PART 2

## RESIDENTIARY CANONS

### Qualifying residentiary canons

**2.**—(1) In regulation 2 of the Terms of Service Regulations (interpretation), after paragraph (3) insert—

"(4) For the purposes of these Regulations, a residentiary canon is a "qualifying residentiary canon" if—

(a) the Commissioners are required to make payments to the residentiary canon under section 28(1)(b) of the Cathedrals Measure 2021,

(b) the Chapter of the cathedral concerned pays the whole of the residentiary canon's stipend or other emoluments and provides the residentiary canon's housing, or

(c) the residentiary canon does not come within sub-paragraph (a) or (b) but the Chapter of the cathedral concerned has resolved that the residentiary canon is nonetheless to be regarded as being a qualifying residentiary canon."

(2) In regulation 6 of the Terms of Service Regulations (statement of changes), after paragraph (2) insert—

"(2A) If a residentiary canon becomes a qualifying residentiary canon by virtue of a resolution under regulation 2(4)(c), the officer nominated by the bishop under regulation 3(1) shall give to the residentiary canon a written statement to that effect."

(3) In that regulation, in each of paragraphs (3) and (4), after "paragraph (1)" insert "or (2A)".

### Annual review

**3.**—(1) After regulation 18 of the Terms of Service Regulations insert—

"**Executive residentiary canons: annual review**

**18A.**—(1) In the case of each office holder who is an executive residentiary canon, the dean of the cathedral shall, on at least one occasion in each calendar year, conduct a review with the residentiary canon of his or her exercise of cathedral duties.

(2) A review under this regulation is to be known as an "annual review" and is in addition to the ministerial development review.

(3) It shall be the duty of each executive residentiary canon to co-operate in any annual review undertaken under this regulation.

(4) The dean shall keep a written record of the outcome of any annual review and of any relevant matters relating to such a review, which shall be signed by the residentiary canon and the dean.

(5) In this regulation, "executive residentiary canon" means a residentiary canon who is an executive member of the Chapter of the cathedral concerned; and "executive member" and "cathedral duties" each have the same meaning as in the Cathedrals Measure 2021."

(2) In regulation 18 of the Terms of Service Regulations (ministerial development review), in paragraph (4), after "the Archbishops' Council" insert "; and the guidance may relate to annual reviews for executive residentiary canons under regulation 18A".

### Training

**4.** In regulation 19 of the Terms of Service Regulations (continuing ministerial education), after paragraph (4) insert—

"(5) In the case of an office holder who is a qualifying residentiary canon, the functions imposed by paragraphs (1), (2) and (4) are instead to be carried out by the dean of the

cathedral concerned; and the references in those paragraphs to the diocesan bishop are accordingly to be read as references to the dean.

(6) But paragraph (5) does not apply in so far as the functions imposed by paragraphs (1), (2) and (4) relate to education or training on the safeguarding of children or vulnerable adults (within the meaning of the Safeguarding and Clergy Discipline Measure 2016(**a**)).”

**Special leave**

**5.**—(1) In regulation 22 of the Terms of Service Regulations (special leave), in paragraph (5), after “the archbishop of the province in which the diocese is situated” insert “or in the case of an office holder who is a qualifying residentiary canon, the dean of the cathedral concerned”.

(2) After that regulation insert—

“**Special leave for qualifying residentiary canons**

**22A.**—(1) When allowing a period of special leave to a qualifying residentiary canon, the dean of the cathedral shall notify the diocesan bishop in writing.

(2) Where the dean of a cathedral has allowed a qualifying residentiary canon a period or periods of special leave in any calendar year totalling three months, the dean may not allow any further period of special leave to the qualifying residentiary canon in that calendar year without having obtained the written consent of the diocesan bishop.”

**Disputes relating to time spent on public duties**

**6.** In regulation 24 of the Terms of Service Regulations (time spent on public duties), in paragraph (3), after “the archbishop of the province in which the diocese is situated” insert “or, in the case of an office holder who is a qualifying residentiary canon, the dean of the cathedral concerned or, if the qualifying residentiary canon is in dispute with the dean, the diocesan bishop”.

**Sickness**

**7.**—(1) In regulation 27 of the Terms of Service Regulations(**b**) (sickness), after paragraph (2) insert—

“(2A) If an office holder who is a qualifying residentiary canon is absent from work because of illness for a continuous period of more than seven days he or she must supply the dean of the cathedral concerned with a certificate of the kind referred to in paragraph (2) (in addition to supplying the certificate to the person nominated under paragraph (1), if required to do so).”

(2) In regulation 28 of those Regulations(**c**) (medical examination), after paragraph (1A) insert—

“(1B) In the case of an office holder who is a qualifying residentiary canon, the power conferred by paragraph (1) is instead exercisable by the dean of the cathedral concerned; and the first reference in that paragraph to the diocesan bishop is accordingly to be read as a reference to the dean.”

**Holding office beyond the age of 70**

**8.** In regulation 29A of the Terms of Service Regulations(**d**) (holding office beyond the age of 70), after paragraph (4) insert—

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(**a**) 2016 No. 1.
(**b**) Relevant amendments have been made by regulation 4 of S.I. 2010/2407 and regulation 2 of S.I. 2015/1654.
(**c**) Relevant amendments have been made by regulation 5 of S.I. 2010/2407.
(**d**) Regulation 29A was inserted by regulation 2(1) of S.I. 2017/316.

"(4A) In the case of an office holder who is a qualifying residentiary canon, the diocesan bishop may not give a direction under paragraph (4) without having obtained the written agreement of the dean of the cathedral."

# PART 3

## SALARY SACRIFICE ARRANGEMENTS

**Salary sacrifice to be treated as stipend**

**9.** In regulation 11 of the Terms of Service Regulations (entitlement to stipend), after paragraph (1) insert—

"(1A) Any stipend which an office holder who is occupying a full-time stipendiary post as mentioned in paragraph (1) gives up in return for the provision of a benefit under arrangements made with an officer of the Commissioners is nonetheless to be treated for the purposes of this regulation as stipend received by the office holder."

# PART 4

## GENDER NEUTRALITY

**Amendments**

**10.**—(1) The Terms of Service Regulations are amended as follows.

(2) In regulation 18(1), for "him" substitute "the bishop".

(3) In regulation 18(2), for "his" substitute "the archbishop's".

(4) In each of regulations 18(4) and 19(2), omit "his".

(5) In each of regulations 19(3) and 28(1) and (1A), after "he" insert "or she".

(6) In each of regulations 19(3) and 33(2)(b), after "his" insert "or her".

(7) In regulation 31(1), for "he" substitute "the bishop".

The draft of these Regulations was approved by the General Synod on 11th July 2021.

*A.S. McGregor*
Registrar of the General Synod

Signed on behalf of the Archbishops' Council by two authorised officers

*Joanna Woolcock*
Director of Finance
*David White*
Deputy Director of Finance

13th July 2021

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 2 of the Ecclesiastical Offices (Terms of Service) Measure 2009 and amend the Ecclesiastical Offices (Terms of Service) Regulations 2009 ("the Terms of Service Regulations").

Part 2 makes provision about residentiary canons. Regulation 2 defines the expression "qualifying residentiary canon" which is used in the amendments to the Terms of Service Regulations.

Regulation 3 requires the dean of a cathedral to carry out an annual review with each residentiary canon who is an executive member of the Chapter of the cathedral.

Regulation 4 provides that continuing ministerial education for qualifying residentiary canons is to be provided by the dean instead of the bishop. But the bishop will continue to provide continuing ministerial education that relates to safeguarding.

Regulation 5 provides for the dean of a cathedral to be the person who grants special leave to qualifying residentiary canons. It also provides that a qualifying residentiary canon may not be granted more than three months' special leave in a calendar year without the consent of the diocesan bishop.

Regulation 6 provides that, where there is a dispute about the time a qualifying residentiary canon spends on public duties (other than those relating to the office of residentiary canon), it is for the dean to resolve the dispute or, where the dispute is with the dean, it is for the diocesan bishop to resolve it.

Regulation 7 provides that a qualifying residentiary canon who is absent from work because of illness for more than seven days must provide a certificate to the dean. It also provides that, where there are concerns about a residentiary canon's health, the dean may direct a medical examination to take place.

Regulation 8 provides that a diocesan bishop may not give a direction for a residentiary canon to continue in office beyond the age of 70 without the agreement of the dean.

Part 3 relates to salary sacrifice arrangements. Regulation 9 provides that where an office holder gives up some stipend in return for some other benefit (for example, an electric car), the stipend is nevertheless to be treated as having been received by the office holder for the purposes of the rules relating to the National Minimum Stipend.

Part 4 relates to gender neutrality. Regulation 10 amends the Terms of Service Regulations so as to gender-neutralise the references to bishops.

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