

**DRAFT ECCLESIASTICAL OFFICES (TERMS OF SERVICE)
(AMENDMENT) REGULATIONS 2010**

Explanatory Memorandum

These draft Regulations amend the Ecclesiastical Offices (Terms of Service) Regulations 2009 (“the 2009 Regulations”). References to particular Regulations in this Explanatory Memorandum are to the relevant provisions of the 2009 Regulations.

Paragraph 1 (Citation, coming into force and interpretation)

Paragraph 1 makes provision for the citation and commencement of the draft Regulations and contains a definition for the purpose of references within the body of the text.

Paragraph 2 (Statement of initial particulars of office)

Paragraph 2 amends the requirements as to information that must be contained in an initial statement of particulars, so as to include details of any provision for time off work to care for dependants. This is to ensure consistency with Regulation 23 and the Directions made thereunder.

Paragraph 3 (Right to object to regulated transactions)

Paragraph 3 amends an incorrect cross-reference in Regulation 16(6).

Paragraph 4 (Sickness)

Paragraph 4 amends the requirements of Regulation 27 as to the person responsible for receiving reports of sickness absence from an office holder under Common Tenure. Regulation 27 currently provides that this should be the officer nominated under Regulation 3(1) to issue statements of particulars. The Archbishops’ Council has received representations that some dioceses would prefer these functions to be handled separately by different people. Paragraph 4 therefore makes provision for the appointment of a person to receive reports of sickness absence. In practice, there would be nothing to prevent this being the same person as the officer appointed under Regulation 3(1) if this were thought desirable.

Paragraph 5 (Medical Examination)

Paragraph 5 extends the application of Regulation 28 to the archbishops. It enables either archbishop to direct that the other archbishop shall undergo a medical examination if he has reasonable grounds for concern about that archbishop’s physical or mental health. This provision is necessary to ensure consistency in the application of the capability procedure as between the archbishops and other office holders.

Paragraph 6 (Fixed or other limited term appointments)

Paragraph 6 adds a new category to the cases listed in Regulation 29(1) where an appointment may be made to a Common Tenure office on a fixed or limited term basis. This is where the office holder does not have the right of abode, or unlimited leave to enter or remain, in the UK. The need for this provision came to the Council's attention in the course of discussions with the UK Borders Agency. It is necessary that there should be power to terminate an appointment in circumstances where the office holder no longer has the right to work in the UK.

Paragraph 7 (Posts subject to potential pastoral reorganisation and priests-in-charge)

Paragraph 7 excises from Regulation 30(1)(a) an incorrect cross-reference to a provision repealed by the Ecclesiastical Offices (Terms of Service) Measure 2009.

Paragraph 8 (Capability procedures to be conducted in accordance with Codes of Practice)

Paragraph 8 addresses an oversight in the drafting of Regulation 31. It was always intended that it should be possible to instigate capability proceedings against a diocesan bishop or an archbishop and the Code of Practice approved by the Synod in February 2010 makes express provision for such cases. However, at present the Regulations do not provide any mechanism whereby a capability inquiry can be initiated in these circumstances. Paragraph 8 therefore provides that such an inquiry may be initiated, in the case of a diocesan bishop, by the archbishop of the province in which the diocese is situated and, in the case of an archbishop, by the other archbishop.

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