**NOTES ON DISPOSSESSION OF THE CLERGY AND PAYMENT OF COMPENSATION**

Peter is amending this letter + Rules ref

Appendix 1.6 of the Code to the 2011 Measure needs to tie-in with this too

See **Paragraphs 4.12-4.16 of** **Chapter 4 of the Mission and Pastoral Measure 2011 Code of Recommended Practice** for a general introduction to this subject. Schedule 4 of the Mission and Pastoral Measure provides for the payment of compensation to any incumbent or archdeacon (whether a freeholder or on Common Tenure) or any other holders of Common Tenure offices who receive a stipend or other emoluments of office (including accommodation) whose offices cease to exist as a result of pastoral reorganisationand they are not appointed by the scheme to an ecclesiastical office with a stipend or any other emoluments at an equivalent or higher level. . The detailed procedure for dealing with such cases is as follows:

 **PRELIMINARY STEPS**

1. Discussions with those affected

 As for all other proposals for unions, or pluralities the incumbent of a benefice (and the holder of a team vicar's office) which is affected must be given, at the stage when his or her views are ascertained, an opportunity of meeting the DMPC (as distinct from a sub-committee or representative thereof) if (s)he so desires. archdeacons and other common tenure office holders may request a meeting with a sub-committee or representative of the Committee (*see ss.6(5 ) and 21(4)*). It will generally be helpful in the case of a priest who is to be dispossessed if at this stage an explanation is given of the main features (see paragraph 4 below) of schemes which result in the dispossession of clergy. It may also be helpful if the provisions of the Measure or the Terms of Service Regulations with respect to compensation are explained in outline, although it should be noted that an actual claim cannot arise until a scheme has become law and that the scheme itself will not refer to compensation.

2. Possibility of Appeal

 Proposals which would result in the dispossession of an incumbent, archdeacon, team vicar or other common tenure office holder without his or her assent must be given effect by a pastoral scheme. *( the proviso to s.51 prevents them being included in a pastoral order)*. If adverse representations are made following the publication of the draft scheme and the Commissioners decide that the draft should proceed notwithstanding the objections, it is, therefore, possible for an application for leave to appeal to be made to the Privy Council against the dispossession as well as any other provisions of the scheme.

3. Rural or Area deans

 It is not generally necessary for proposals which result in the abolition of a rural deanery and thereby deprive a priest of the office of rural dean to be implemented by a pastoral scheme, as distinct from a pastoral order. S.40 does not confer any rights of compensation upon rural deans so deprived. **In most dioceses posts as rural or area dean are held under a Commission from the Bishop and are not common tenure offices. However, it is possible for an office of rural dean to be held as a common tenure office, and if that is the case and the person concerned receives remuneration specifically in relation to their office of rural dean a right to compensation would arise and the proviso in s.51 would apply.**

4. Timing, etc., of effects of dispossession

 The following are special features of schemes which have the effect of dispossessing clergy of office *(see s.39(3))*:

 (1) The scheme must provide that the provision which results in the dispossession shall not come into operation until a date at least 6 months after the scheme has been made. This provision will not, however, be necessary if a sitting incumbent or team vicar or other office holder whose office is dissolved is designated to become the first incumbent of a benefice created or otherwise affected by the scheme or the first holder of the office of team vicar in a team ministry established by the scheme.

 (2) If the coming into operation of the provision is dependent upon the occurrence of some other event (e.g. the vacation of another benefice), it cannot come into operation until a date at least 6 months after that event*.*

 (3) The scheme may provide that if the post held by the priest who would otherwise have been dispossessed is vacated, the provision shall come into operation upon the making of the scheme, or on the occurrence of the event referred to in (2), or upon the vacancy of the office, whichever last occurs.

 Attention is also drawn to the following provisions of the Measure:

 Agreement to resign

 If, when a scheme which will result in the dispossession of an incumbent, archdeacon team vicar or other relevant common tenure office holder has become law (i.e. has been made by the Commissioners), and the priest or office holder affected so agrees with the DMPC, (s)he may resign his or her post in order to enable the scheme to come into operation, or to facilitate its coming into operation, and will remain entitled to compensation resignation *(Sch. 4, para. 2)*.

 Possession of parsonage house or other place of residence

 The DBF is given the right to take proceedings, if necessary, to obtain possession of the official house of residence of an incumbent, archdeacon or team vicar who is dispossessed of his or her office *(s.39(4))*. Other Common Tenure office-holders are required by Regulation 14(h) of the Ecclesiastical Offices (Terms of Service) Regulations 2009 to vacate the house of residence or other accommodation provided for the better performance of their duties within one month of the date on which he or she ceases to hold that office.

5.

 **COMPENSATION**

5. General

 The detailed provisions affecting compensation are set out in Schedule 4 to the Measure. The dispossessed office-holder is entitled to a lump sum payment of twelve months stipend and twelve months pension-contributions for someone on that stipend. Where the person concerned is occupying a parsonage or other official residence for the better performance of the duties of the office, the DBF must provide the person concerned with accommodation suitable for him or her and any family members living with him or her for twelve months. However, the Board and the office-holder may agree the payment of an amount in place of this obligation.

6. The compensation is payable to anyone dispossessed by a scheme unless that person is appointed to another ecclesiastical office with a stipend of emoluments at an equivalent or higher level by the scheme. The amount is not affected by the amount of stipend or other emoluments which the person receives from any other ecclesiastical office or secular employment which he or she may be appointed to other than by the scheme. ..

7 Additional Payment

 The bishop may authorise an additional payment and the person entitled to compensation may apply to a reviewer appointed for this purpose by the Archbishops for a review of a bishop’s decision not to authorise such a payment or of the amount of the additional payment. However, the only grounds for such an application are that the bishop’s decision would cause exceptional hardship to the person dispossessed or a family member with whom he or she lives.

8. Commissioners advise clergy about rights

 When the Commissioners sendg to the priest concerned notice of a draft scheme under which (s)he would dispossessed they also send to him or her notes prepared by them relating to compensation. The Commissioners also draw attention to the fact that once the scheme had become law (s)he could, with the agreement of the DMPC, resign his or her post without prejudicing an entitlement to compensation, but that if (s)he should resign the benefice before the scheme has become law (s)he would not thereafter be entitled to compensation under the Measure.

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