

GENERAL SYNOD
DRAFT ECCLESIASTICAL OFFICES (TERMS OF SERVICE) (AMENDMENT)
REGULATIONS 2021

EXPLANATORY NOTES

A. OVERVIEW

1. The draft Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 2021 (the **draft Amending Regulations**) make the following amendments to the Ecclesiastical Offices (Terms of Service) Regulations 2009 (the **2009 Regulations**):
 - (a) Part 2 implements those recommendations in the Cathedrals Working Group Report 2018 (the **Report**) relating to residentiary canons that require legislative change to the 2009 Regulations to be implemented.
 - (b) Part 3 enables stipendiary office holders to enter into salary sacrifice arrangements and provides for the benefit received to be treated as part of their stipend.
 - (c) Part 4 amends the 2009 Regulations to gender-neutralise the references to bishops.

Part 2: Residentiary canons

2. A group including bishops, deans, residentiary canons and cathedral administrators were consulted on the proposals as to how those recommendations in the Report relating to residentiary canons that require statutory change should be implemented.
3. The Report recommended the transfer of a number of specific functions from the bishop to the dean in relation to residentiary canons who do not also hold diocesan appointments. Consideration was given as to which residentiary canons these changes should apply to. One option considered was whether these changes should apply to those residentiary canons who are “executive” members of the Chapter, which would give deans more oversight over ‘operational’ residentiary canons and avoid creating different categories of residentiary canons for different purposes. However, the feedback from the consultation group was that some executive residentiary canons also have significant diocesan roles, such as Archdeacons, and it would not be appropriate for these changes to apply to them. Therefore, Regulation 2 provides that these changes will apply automatically only to:
 - (a) “Commissioner” canons (being those whose stipends are paid by the Church Commissioners); and
 - (b) any other residentiary canons whose entire stipend and housing are paid/provided by the cathedral.

However, to provide flexibility to individual cathedrals, Regulation 2 also provides for an “opt in”, which Chapters can agree on an individual basis in relation to a specific residentiary canon.

4. Regulations 4 to 7 transfer the following functions from the bishop to the dean for qualifying residentiary canons:
 - (a) The provision of suitable training (other than safeguarding training, which remains with the bishop) and the provision of time off work to undertake it.
 - (b) The granting of special leave, although the dean is required to inform the bishop when granting special leave for a residentiary canon as the reason for granting special leave could be 'spiritual' as well as operational. In addition, the dean's power to grant special leave is limited to three months, with the granting of any further period of special leave by the dean requiring the bishop's prior written consent.
 - (c) The determination of a dispute about the time a qualifying residentiary canon spends on public duties (other than those relating to the office of residentiary canon, which will remain with the bishop), unless that dispute is with the dean.
 - (d) The person to whom a qualifying residentiary canon must provide a notice of sickness will now be the dean, in addition to the person nominated by the bishop. The requirement to notify to the person nominated by the bishop has been retained and not substituted, because of the need to inform the Church Commissioners' payroll through which all residentiary canons are paid.
 - (e) The ability to direct a residentiary canon to undergo a medical examination.
5. Regulation 8 requires a diocesan bishop to obtain the agreement of the dean before making a direction for a qualifying residentiary canon to continue in office beyond the age of 70.
6. Regulation 3 inserts a new requirement for the dean to carry out an annual review with each residentiary canon who is an executive member of the Chapter in relation to the exercise of his or her cathedral duties¹. This is the only new provision which relates to all executive residentiary canons, rather than to qualifying residentiary canons, as restricting the annual review to qualifying residentiary canons only would be too narrow. Providing for such an annual review will also support s.12(7) of the Cathedrals Measure 2021², which requires cathedral clergy to be accountable to the Chapter through the dean. The annual review meeting between the dean and each executive residentiary canon relates to their cathedral duties and is entirely separate from Ministerial Development Reviews (**MDRs**). The bishop will continue to be responsible for residentiary canons' MDRs as part of their general episcopal oversight of all licensed clergy.

Part 3: Salary Sacrifice and electric vehicles

7. Salary sacrifice schemes, where an employee (or someone, such as an office holder, who is entitled to remuneration) gives up the right to part of the cash remuneration due to them in return for a benefit in kind such as additional

¹ S.45(1) Cathedrals Measure 2021: "cathedral duties", in relation to a cathedral, means duties (whether in the cathedral or the diocese) which should, in the opinion of the Chapter after consultation with the bishop, be performed in or from the cathedral;

² S.12(7) The clergy of the cathedral are, in respect of their functions relating to the cathedral, accountable to the Chapter through the dean in accordance with arrangements made by the Chapter.

pension, are routinely offered and can be advantageous to employees etc as their taxable income may be reduced. Regulation 11 of the 2009 Regulations provides that clergy office holders holding a full-time stipendiary post are entitled to receive an annual stipend which is not less than the National Minimum Stipend (NMS). This has the effect of precluding such clergy from salary sacrifice schemes, because the sacrifice involved will usually take them below the NMS.

8. Salary sacrifice schemes can also now make the leasing of electric vehicles much more affordable, as the employee pays for the vehicle lease pre-tax, which lessens the taxable income of the employee. Prior to 2020, salary sacrificing came with a high “benefit-in-kind” charge. However, from 2020, where the salary sacrifice is used to obtain an electric vehicle, this charge was reduced to 0%, increasing to 1% in 2021 and a subsequent slow increase in the following years. In addition, where an electronic vehicle is leased to an employee, there are a number of potential additional benefits that can be included in the monthly price and thus also in the salary sacrificed, such as insurance, breakdown cover, servicing, tyre and wear replacement and GAP Insurance.
9. Leasing schemes are simple to set up and only require minimal work on the part of the employer, with almost all technical communication being between the employee and the lessor. Some dioceses have already set up such schemes for their employees, but full-time stipendiary clergy office holders cannot participate at present because of the legal entitlement to receive not less than the National Minimum Stipend.
10. The national Environmental Working Group has agreed that reimbursable clergy travel should be included within the scope of the Church’s net zero carbon emissions by 2030 and wishes to actively encourage clergy office holders to lease electric cars. In order to make that affordable for clergy, a salary sacrifice scheme is needed, as that will enable them to purchase such cars at a reduced cost. But because, for most clergy, a salary sacrifice arrangement would result in their stipend falling below the NMS, it is necessary to amend the 2009 Regulations to enable clergy office holders holding a full-time stipendiary post to participate in salary sacrifice arrangements.
11. The proposed change to the 2009 Regulations has the effect that the amount sacrificed counts as stipend for the purposes of Reg 11 of the 2009 Regulations. It is not restricted to electric car lease schemes, but is a general power, making it possible for salary sacrifice arrangements to be made in other circumstances that might be beneficial for clergy office holders in the future, such as the purchase of bicycles, childcare vouchers, or additional pension.

B. PROCESS

12. The Archbishops’ Council is laying the draft Amending Regulations before the General Synod for approval under section 2 of the Ecclesiastical Offices (Terms of Service) Measure 2009 to amend the Ecclesiastical Offices (Terms of Service) Regulations 2009 (“the Terms of Service Regulations”).
13. The Business Committee has determined that the draft Amending Regulations will be debated by the Synod under the One Motion Procedure in SO 72.

14. Amendments to the draft Amending Regulations are permissible under SO 72(3). Under SO 71(5), any member who wishes to give notice of an amendment must do so in accordance with SO 13 not later than 5.30 p.m. on Thursday 8 July 2021.

C. NOTES ON CONTENT OF REGULATIONS

Regulation 1: Citation, commencement and interpretation

15. This regulation provides for the draft Amending Regulations to come into force as follows:
- (a) Parts 1, 3 and 4 will come into force on the day after the day on which they are laid before Parliament.
 - (b) Part 2 comes into force in relation to each cathedral to which the Cathedrals Measure 2021 applies on the day on which the provisions referred to in section 53(3) of the Cathedrals Measure 2021 come into force in relation to that cathedral.

Regulation 2: Qualifying residentiary canons

16. This regulation defines the expression “qualifying residentiary canon” which is used in the amendments to the 2009 Regulations.

Regulation 3: Annual review

17. This regulation requires the dean to carry out an annual review with each residentiary canon who is an executive member of the Chapter.

Regulation 4: Training

18. This regulation provides that continuing ministerial education for qualifying residentiary canons is to be provided by the dean instead of the bishop. However, the bishop will continue to provide continuing ministerial education that relates to safeguarding.

Regulation 5: Special leave

19. This regulation provides for the dean 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: Disputes relating to time spent on public duties

20. This regulation 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, unless the dispute is with the dean.

Regulation 7: Sickness

21. This regulation provides that a qualifying residentiary canon who is absent from work because of illness for more than seven days must also 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: Holding office beyond the age of 70

22. This regulation 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.

Regulation 9: Salary sacrifice to be treated as stipend

23. This regulation 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.

Regulation 10: Amendments

24. This regulation amends the 2009 Regulations to gender-neutralise the references to bishops.

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June 2021