

ANGLICAN CHURCH OF AUSTRALIA

DIOCESE OF CANBERRA AND GOULBURN

CLERGY LEAVE ORDINANCE 1995¹

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¹ Please note that this is a copy of the original ordinance recorded in the Ordinance books of the Diocese of Canberra and Goulburn. If you have any concern about this ordinance please contact; rupert.hammond@netspeed.com.au
This version of the Ordinance has not been approved by the Chancellor in accordance with section 75 of the Diocesan Legislation Ordinance 2007 and is provided only for information

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AN ORDINANCE

To provide for leave to be taken by clergy in the Diocese.

The Synod of the Diocese of Canberra and Goulburn enacts:

PART 1 - INTRODUCTORY

1. Title

1.1 This Ordinance may be cited as the Clergy Leave Ordinance 1995.

2. Definitions

2.1 In this Ordinance, unless the contrary intention appears:

"family allowance" means family allowance payable in accordance with the Clergy Family Allowances Ordinance 1981;

"parish" includes special district;

"Parish Council" includes the District Council of a special district;

"paying authority" in relation to a clergy member means:

- (a) in the case of a member of the clergy licensed by the Bishop to a parish, the Parish Council; or
- (b) in the case of a member of the clergy employed by a diocesan institution, the governing body, however described, of that institution; or
- (c) in any other case, the Diocese.

2.2 A reference in sections 19.1, 21.1, 22.1, 22(4), 23.1 and 26.2 to the paying authority is, in a case where the paying authority is the Diocese, to be read as a reference to the Bishop.

PART 2 - ANNUAL LEAVE

3. Entitlement of parish clergy to annual leave

3.1 A clergy member whose paying authority is a Parish Council and who is in full time service in that parish is entitled to leave of absence under this Part ("annual leave") for a total of 28 days in each calendar year, including 4 Sundays.

3.2 Annual leave that is not taken before the end of the year in which it is due lapses at the end of that year unless approval to accrue the leave for a special purpose for a period not exceeding 2 years is given by the Parish Council and the Bishop.

4. When annual leave is to be taken

4.1 The priest of a parish must consult with the Parish Council concerning the time or times when he or she proposes to take annual leave.

4.2 Annual leave is to be taken by an assistant priest or deacon in a parish at such time or times as the priest of the parish or district approves.

5. Bishop to be notified by priest of parish

5.1 The priest of a parish must inform the Bishop of his or her intention to take annual leave.

PART 3 - LONG SERVICE LEAVE

6. Definitions

6.1 In this Part:

"Canon" means the Long Service Leave Canon 1992 of the General Synod;

"qualifying service" has the same meaning as in the Canon.

7. Payment of long service leave contributions

7.1 Each paying authority, other than the Diocese, must pay to the Registrar of the Diocese contributions in respect of long service leave in accordance with this Part.

7.2 Contributions are payable in respect of each clergy member for whose stipend the paying authority is responsible and who has, in the month preceding the due date for payment of the contribution, rendered qualifying service.

- 7.3 A paying authority must pay, in respect of each clergy member for whose stipend it is responsible, the amount of contribution determined in accordance with the Canon.
- 7.4 Contributions payable under this Part are due and payable on the first day of each month.

8. Payment of allowances to clergy members on long service leave

- 8.1 The Bishop-in-Council, after consulting with the paying authority, must determine what allowances, if any, ordinarily payable to a clergy member shall be paid to that member during a period of absence from duty on long service leave.
- 8.2 The Bishop-in-Council must, before making a determination in respect of a clergy member whose paying authority is a parish, obtain the views of the Regional Archdeacon.
- 8.3 An allowance paid under subsection 8.1 to a clergy member must be paid at such rate as the Bishop-in-Council determines, but not at a rate greater than is ordinarily payable to that person.

9. Payment of family allowance during long service leave

- 9.1 Section 8 does not apply to payment of family allowance in respect of a clergy member.
- 9.2 Family allowance is payable to a clergy member on long service leave.

10. Priority in taking long service leave

- 10.1 Where it is necessary to determine the priority in which members of the clergy who are entitled to long service leave should take that leave, having regard to the needs of the paying authority and of the Diocese, the order in which those members may take long service leave is determined by the Bishop-in-Council.
- 10.2 Before making a determination under subsection (1), the Bishop-in-Council must, where one or more of the clergy members involved are employed in a parish, obtain a report from the respective Regional Archdeacons.

11. Provision of accommodation for persons relieving in place of clergy member on long service leave

- 11.1 Where a clergy member on long service leave is to be absent from residential accommodation provided by the paying authority, the paying authority may, after consultation with the clergy member,

make that accommodation available to a person relieving in the place of the clergy member.

11.2 Where accommodation is made available under subsection 11.1, the paying authority must pay to the clergy member an allowance in respect of any furniture and furnishings the property of the clergy member or of his or her family in the residence.

11.3 Where the paying authority and the clergy member do not reach agreement on the allowance to be paid under this section, the matter must be referred for decision:

(a) where the paying authority is a parish, to the Regional Archdeacon; or

(b) in any other case, to the Registrar.

PART 4 - MATERNITY LEAVE

12. Married female clergy to be entitled to maternity leave.

12.1 A female clergy member who is married and who becomes pregnant is entitled to maternity leave in accordance with this Part to care for her child during the first year of the child's life.

12.2 The leave to which she is entitled is a maximum period of 52 weeks comprising:

(a) a period not exceeding 12 weeks paid maternity leave; and

(b) any period of annual leave or long service leave taken in accordance with section 19; and

(c) a further period of unpaid maternity leave.

13. When a period of maternity leave is to begin

13.1 Subject to section 14, maternity leave commences one calendar month prior to the expected date of birth unless otherwise agreed between the clergy member and the paying authority and approved by the Regional Archdeacon.

14. Arrangements for taking maternity leave

14.1 This section applies where the paying authority is a body other than the Diocese.

14.2 Where agreement on arrangements for taking maternity leave by a clergy member cannot be reached between the paying authority and

the clergy member, the matter must be referred to the Regional Archdeacon.

14.3 The Regional Archdeacon is required to seek a mutually satisfactory agreement between the clergy member and the paying authority.

14.4 Where such an agreement is not reached, the matter must be referred to the Bishop for decision.

14.5 The decision of the Bishop is binding on the clergy member and the paying authority.

15. Arrangements for maternity leave for clergy employed by the Diocese

15.1 Section 13 does not apply where the paying authority is the Diocese.

15.2 In such a case, arrangements for taking maternity leave by a clergy member must be agreed to by the Bishop.

16. Application for maternity leave to be made to the Bishop

16.1 An application for maternity leave must be made in writing to the Bishop not less than 3 months before the expected date of birth of the child.

16.2 Before approving the leave, the Bishop must be satisfied that arrangements have been made in accordance with this Ordinance for the taking of the leave.

17. Emoluments during paid maternity leave

17.1 A clergy member on maternity leave is entitled to the following emoluments for the period of paid maternity leave:

- (a) payment by the Diocese of stipend at the rate payable to that person immediately before the leave commences; and
- (b) provision by the paying authority of all other emoluments and benefits to which the person is entitled immediately before the leave commences.

17.2 The emoluments and benefits to be provided under subsection 17.1 include, but are not limited to, allowances in respect of housing, transport, telephone, energy and family allowance.

18. Conditions of service during unpaid maternity leave

18.1 The Diocese must pay, during a period when a clergy member is absent from duty on unpaid maternity leave, such amounts relating to

superannuation, family allowance, long service leave and personnel insurance in respect of the clergy member as are ordinarily payable by the paying authority.

18.2 A clergy member who is provided by the paying authority with housing accommodation may continue to live in the accommodation during a period of unpaid maternity leave on condition that she pays rent for the accommodation at a rate agreed on with the paying authority.

18.3 Where:

- (a) a clergy member is provided by the paying authority with housing accommodation; and
- (b) her spouse is a clergy member employed by the Diocese, an agency of the diocese or a parish but no housing accommodation or housing allowance is provided to the spouse by his paying authority; and
- (c) she agrees with her paying authority to pay rent for the accommodation during a period of unpaid maternity leave, the spouse's paying authority may pay the rent on her behalf in lieu of providing accommodation to the spouse under standard conditions of clergy service.

18.4 A housing allowance paid by the paying authority to a clergy member is not payable during a period of unpaid maternity leave.

19. Taking accrued annual and long service leave

19.1 A clergy member who takes maternity leave may, with the agreement of the paying authority, take any accrued annual leave or long service leave immediately following the period of paid maternity leave.

19.2 Where accrued annual or long service leave is taken in accordance with subsection 19.1:

- (a) the paying authority is required to pay stipend and provide other emoluments and benefits applicable during a period of annual leave or long service leave, as the case may be; and
- (b) the period of leave so taken is to count as part of the total period of 52 weeks referred to in section 12.2.

20. Unpaid maternity leave to be counted as service

20.1 Absence on unpaid maternity leave counts as service as a member of the clergy for the purposes of all entitlements under Ordinances of the Diocese, other than annual leave.

21. Return to work on conclusion of maternity leave

21.1 A clergy member who takes maternity leave is entitled to return, at the end of the period of leave, to the position held immediately before the commencement of maternity leave if at least 3 weeks before the end of the period of paid maternity leave:

- (a) she has notified the paying authority of her intention to return to that position at the end of the period of paid maternity leave or, where annual leave or long service leave is taken in accordance with section 19, at the end of that leave; or
- (b) she has reached an agreement with the paying authority to return to that position at the end of any further period of unpaid maternity leave.

21.2 Where a clergy member on maternity leave is entitled to return, at the end of a period of unpaid maternity leave, to the position she held before commencing that leave, the paying authority may employ a person in that position during her absence on leave only on the basis that the employment is temporary and ceases when she returns from maternity leave.

22. Bishop may revoke licence in certain cases

22.1 Where a clergy member on maternity leave:

- (a) does not notify the paying authority in accordance with section 21 of her intention to return to the position held immediately before the commencement of the maternity leave; or
- (b) has not reached agreement with the paying authority to return to that position at the end of a further period of unpaid maternity leave, the Bishop may revoke the licence held by the clergy member in respect of that position.

22.2 Where the Bishop revokes the licence of a clergy member under subsection 22.1 the clergy member is taken for all purposes to have resigned the position.

22.3 Before making a decision to revoke a licence under subsection 22.1 the Bishop must call upon the clergy member to show cause why the licence should not be revoked.

22.4 If the clergy member claims that she has not been able to reach agreement on reasonable terms and conditions with the paying authority to return to her position at the end of a period of unpaid leave, the Bishop must not revoke the licence in respect of that position under subsection 22.1 unless he is satisfied that the failure to reach agreement was not unreasonable on the part of the paying authority.

23. Diocese to seek employment for clergy member on maternity leave in certain cases

23.1 Where a clergy member:

- (a) is on unpaid maternity leave; and
- (b) has not made an arrangement with the paying authority to return to her position; and
- (c) wishes to return to employment in the Diocese on a full time or part time basis,

she must, not less than 8 weeks before the end of the period of unpaid leave, notify the Bishop of her wish to do so.

23.2 Where a clergy member so notifies the Bishop, the Bishop is responsible for seeking appropriate employment for her.

24. Grant of licence to officiate

24.1 Where the Bishop revokes the licence of a clergy member who is on unpaid maternity leave under section 21.2, she is entitled, in the absence of any impediment, to be granted a licence to officiate during the period of unpaid leave.

25. Pregnancy terminated by miscarriage or still-birth

25. A clergy member whose pregnancy terminates after a period of not less than 28 weeks by miscarriage or results in a still-born child is entitled to a period of 12 weeks paid maternity leave.

PART 5 -PATERNITY LEAVE

26. Entitlement to paternity leave

26.1 A clergy member whose wife is pregnant is entitled to paid paternity leave at his ordinary rate of pay for a period or periods not exceeding 5 days in total.

- 26.2 Paternity leave in accordance with subsection 26.1 may be taken, by arrangement with the paying authority, at any time within the period commencing one week prior to the expected date of birth of the child and ending 6 months after the birth.
- 26.3 Where the Bishop is satisfied that the clergy member is, or will be when the child is born, the major carer of the child, the Bishop may grant extended paid paternity leave to the clergy member.
- 26.4 The provisions of this Ordinance relating to paid maternity leave apply, with such adaptations as the case may require, to extend paid paternity leave.

PART 6 - ADOPTION LEAVE

27. Entitlement to adoption leave

- 27.1 A clergy member who satisfies the Bishop that he or she:
- (a) is an approved applicant for the adoption of a child; and
 - (b) will be the major carer of the child when adopted,
- is entitled to be granted paid adoption leave at his or her ordinary rate of pay in accordance with this section.
- 27.2 The period of adoption leave is:
- (a) where the child is aged less than 12 months at the date of placement, a continuous period for a maximum of 12 weeks; or
 - (b) where the child is aged 12 months or more at the date of placement, a continuous period for a maximum of 6 weeks,
- commencing on that date.
- 27.3 Section 17 applies in relation to a clergy member who has been granted paid adoption leave as if the paid adoption leave were paid maternity leave.

PART 7 - MISCELLANEOUS

28. Amendment of Administration of Parishes and Special Districts Ordinance

- 28.1 Section 61 of the Administration of Parish and Special Districts Ordinance 1975 as amended is repealed.

26. Repeal

29.1 The Long Service Leave Ordinance of 1968 is repealed.

29.2 The repeal does not affect the operation of any determination made by the Bishop-in-Council or any entitlement arising under the repealed Ordinance.

Notes:

Passed with amendment by Synod on 6 August 1995 and assented to by Bishop George on 6 August 1995.

The numbering of this Ordinance has been changed to comply with present usage. See Diocesan Legislation Ordinance 2007.