

*Status: Point in time view as at 01/08/1993.*

*Changes to legislation: Pastoral Measure 1983 (repealed), SCHEDULE 4 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

Section 26.

#### COMPENSATION OF CLERGY

- 1 The incumbent of a benefice dissolved by a pastoral scheme or deemed to be vacated by virtue of section 25, the archdeacon of an archdeaconry dissolved by a pastoral scheme and the holder of an office of vicar in a team ministry whose office is abolished by or as the result of a pastoral scheme or order, shall be entitled to compensation for any loss suffered by him in consequence of the dissolution or vacation of the benefice or archdeaconry or the abolition of the office, as the case may be.
- 2 Where the incumbent of a benefice for which a team ministry is established is designated or appointed the first rector in the team ministry, but the scheme provides that his office shall be held for a term of years, the incumbent shall, if he is required to vacate his office on the expiration of any term for which it is held, be entitled to compensation for any loss suffered by him in consequence thereof.
- 3 Where the incumbent of a benefice, being a benefice for the area of which a team ministry is established or a benefice dissolved by a pastoral scheme, is designated or chosen as the first holder of any office of vicar in a team ministry, he shall, if he is required to vacate the office on the expiration of any term for which it is held, be entitled to compensation for any loss suffered by him in consequence thereof.
- 4 If the incumbent of any benefice or the archdeacon of an archdeaconry or a vicar in a team ministry agrees with the pastoral committee that, if he resigns his benefice, archdeaconry or office in order to enable a pastoral scheme or order to come into operation or to facilitate its coming into operation, compensation will be payable for any loss suffered by him in consequence of his resignation, he shall be entitled, on resignation after the confirmation of the scheme by Order in Council or the making of the order, as the case may be, to compensation for any such loss.
- 5 Without prejudice to the generality of the foregoing provisions, the loss suffered by any such incumbent or archdeacon or vicar as aforesaid shall include loss arising from his ceasing to occupy the parsonage house or other official residence of the incumbent, archdeacon or vicar and any expenses arising from his change of residence.
- 6 The right to and the amount of compensation payable under this Schedule shall be determined in the first instance by the pastoral committee, but the person claiming the compensation (hereinafter called “the claimant”) shall have a right of appeal to the Appeal Tribunal constituted under this Schedule for the relevant province.
- 7
  - (1) The compensation shall consist of periodical payments or a lump sum payment, or partly of one and partly of the other, and compensation in the form of periodical payments shall not be assignable.
  - (2) The pastoral committee may, pending the final determination of a claim for compensation, make payments on account to the claimant.

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- 8 In determining whether any claimant has suffered loss giving a right to compensation and, if so, the amount thereof, the pastoral committee and the Appeal Tribunal—
- (a) shall take into account the emoluments of any ecclesiastical office (including another benefice) to which the claimant has been or is to be appointed, or of any other regular remunerated employment in which he is or is to be engaged; and
  - (b) if he refuses without good and sufficient reason to accept an ecclesiastical office which in the opinion of the committee or Tribunal is reasonably comparable to the benefice or office in respect of which the compensation is claimed, may take into account the emoluments of the office so refused.
- 9 If any person who is receiving compensation under this Schedule in the form of periodical payments is appointed to any ecclesiastical office or becomes engaged in any remunerated employment, or refuses any such office as is mentioned in sub-paragraph (b) of the last foregoing paragraph, the pastoral committee may suspend the periodical payments or reduce the amount thereof, having regard to the emoluments of the office, but the person affected shall have a right of appeal to the Appeal Tribunal.
- 10 Any person who has been refused compensation under this Schedule or is receiving or has received such compensation may apply to the pastoral committee for a grant or renewal of such compensation or, as the case may be, an increase of such compensation (whether by way of an increase of periodical payments or a lump sum payment or both), on the ground that circumstances of which account was taken under paragraph 8 or paragraph 9 have materially altered to his disadvantage, and the pastoral committee may grant or renew such compensation or make such increase thereof on that ground, and an appeal shall lie to the Appeal Tribunal against the refusal of any such application.
- 11 If any person who is claiming or receiving or has received compensation under this Schedule—
- (a) executes a deed of relinquishment under the <sup>M1</sup>Clerical Disabilities Act 1870; or
  - (b) becomes a member of a religious body which is not in communion with the Church of England; or
  - (c) becomes disqualified under the Ecclesiastical Jurisdiction Measures 1963 and 1974 from holding preferment in the Church of England;
- the pastoral committee may refuse the claim or, as the case may be, may order, subject to a right of appeal to the Appeal Tribunal, that no further payment of compensation shall be made to him under this Schedule.

#### Marginal Citations

**M1** 1870 c. 91.

- 12 It shall be the duty of every claimant and every applicant under paragraph 10 and every person who is receiving compensation under this Schedule by way of periodical payments, to disclose to the pastoral committee any ecclesiastical office to which he has been appointed or which has been offered to him, and any other remunerated employment in which he is or is to be engaged, and any such matter as is mentioned in the foregoing paragraph, and if he fails to do so and it appears to the pastoral committee that in consequence they have made payments which otherwise

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they would not have made or payments in excess of those that they would otherwise have made, they may, without prejudice to their powers under paragraphs 9 and 11, direct the repayment of the amount of the payments or excess or such part thereof as they think just, and that amount shall be recoverable as a debt due to the diocesan board of finance:

Provided that an appeal shall lie to the Appeal Tribunal against any such direction.

- 13 (1) Subject as hereinafter provided, where any benefice, archdeaconry or office is dissolved, abolished, vacated or resigned in the circumstances mentioned in paragraphs 1 to 4—
- (a) any period thereafter and before his retirement during which he is not in pensionable service within the meaning of the <sup>M2</sup>Clergy Pensions Measure 1961 shall be deemed for the purposes of the said Measure and this paragraph to be a period of pensionable service, except that any period after the happening of any of the events mentioned in paragraph 11 and, in the case of a vicar in a team ministry, any period after the date on which his term of office would have ended, shall be excluded;
  - (b) on attaining the retiring age within the meaning of the said Measure, he shall be deemed to retire for the purposes of the said Measure and this paragraph, unless he is then in actual pensionable service, and, if his total period of pensionable service is less than the qualifying period of such service for the purposes of the said Measure, it shall be deemed to be increased to that period;
  - (c) the pastoral committee may, if he is deemed to retire as aforesaid and his total period of pensionable service is less than the prescribed period, add to his pension and the pension (if any) of his widow or dependent periodical payments not exceeding the amount necessary to bring the pension up to the amount that it would have been if the total period had been the prescribed period.

In this sub-paragraph “the prescribed period”, in relation to a person who is deemed to retire for the purposes of the said Measure and this paragraph, means the minimum period of pensionable service the performance of which by him would entitle him to a pension at the highest rate applicable in his case.

- (2) The foregoing provisions of this paragraph shall apply in relation to any lump sum payable in accordance with any rules made under section 3 of the <sup>M3</sup>Clergy Pensions (Amendment) Measure 1967 to a person entitled to a pension under the said Measure of 1961 as they apply in relation to a pension thereunder.
- (3) The pastoral committee may, with the agreement of the Church of England Pensions Board and the incumbent, archdeacon or vicar in a team ministry or (if he is dead) his widow or dependant make such modification of the provisions of this paragraph or substitute such other provisions as may appear to the committee to be more appropriate to the particular circumstances of the case and not less advantageous to the incumbent, archdeacon or vicar or his widow or dependant.
- (4) Compensation shall not be payable for any loss which the incumbent, archdeacon or vicar in a team ministry might suffer by reason of the provision in sub-paragraph (1) (b) that on attaining the retiring age within the meaning of the said Measure of 1961 he is deemed to retire for the purposes of that Measure and this paragraph, and, except

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as provided by sub-paragraph (1)(c), compensation shall cease to be payable when he attains that age.

- (5) In determining the amount of the compensation, if any, to which the incumbent, archdeacon or vicar in a team ministry is entitled under this Schedule in respect of any period before he retires or is deemed to retire for the purposes of the said Measure of 1961 and this paragraph, any benefit which may accrue to him by virtue of sub-paragraph (1) shall be disregarded.
- (6) Any reference in this paragraph to the said Measure of 1961 shall be construed as a reference to that Measure, as amended by any regulations approved under section 6 of the <sup>M4</sup>Clergy Pensions (Amendment) Measure 1972.

#### Marginal Citations

- M2** 1961 No. 3.  
**M3** 1967 No. 1.  
**M4** 1972 No. 5.

- 14 (1) The functions of the pastoral committee under this Schedule shall not be delegated to a sub-committee.
- (2) At any meeting of the pastoral committee at which a determination or decision under this Schedule is made or at which the person affected by such a determination or decision is interviewed, the members present shall include—
- (a) either the bishop or a suffragan bishop, and
  - (b) the member representing the diocesan board of finance:

Provided that, if the last-mentioned member is not available for any meeting, another member or officer of the said board (who need not be a member of the pastoral committee) may be nominated by the board to act in the place of the said member at the meeting.

- 15 (1) For the purposes of this Schedule there shall be an Appeal Tribunal for each of the Provinces of Canterbury and York, which shall be constituted as follows:—
- (a) The Dean of the Arches and Auditor shall be the chairman and the Vicar-General of each of the Provinces of Canterbury and York shall be deputy chairmen and one or other of the three (but not more than one) shall sit on each appeal and shall preside:

Provided that if none of the three is available to preside over an appeal, a chancellor of a diocese nominated by the Dean of the Arches and Auditor or, in his absence or illness, by the Vicar-General of the Province concerned shall preside over the appeal.

- (b) A panel of twelve persons shall be appointed [<sup>F1</sup>from among the members of the Lower House of the Convocation of the Province concerned by, in the case of the Convocation of Canterbury, the Standing Committee of the Lower House and, in the case of the Convocation of York, the body of Assessors of the Lower House of that Convocation], in such manner as that House may determine, and four persons from the panel shall be nominated as aforesaid for each appeal.
- (c) A panel of twelve persons shall be appointed by [<sup>F2</sup>the Standing Committee of] the House of Laity of the General Synod from among the members of that House, in such manner as that House may determine, not less than one-

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half of whom [<sup>F3</sup>have a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)], and two persons from the panel shall be nominated as aforesaid for each appeal.

- (2) [<sup>F4</sup>The persons appointed from among the members of] the Lower House of the Convocations or the House of Laity as aforesaid shall be appointed for the lifetime of those Convocations or that House of Laity and, on a casual vacancy, another member of the House concerned shall be appointed in [<sup>F4</sup>place of the person vacating office, in the same manner as that person was appointed], for the remainder of that lifetime:

Provided that the persons appointed as aforesaid shall, when a new House falls to be elected, continue to hold their appointments until the first Session of the new House, and any such person who has heard the whole or a part of an appeal may continue as a member of the Tribunal until the determination thereof.

- (3) The Commissioners shall appoint a secretary to the Appeal Tribunal for each province, and the same person may be appointed for both Tribunals.
- (4) The expenses of an Appeal Tribunal in connection with any appeal shall be paid out of moneys standing to the credit of the diocesan pastoral account of the diocese from which the appeal is brought.

#### Textual Amendments

- F1** Words in Sch. 4 para. 15(1)(b) substituted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 23(a)**; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.
- F2** Words in Sch. 4 para. 15(1)(c) inserted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 23(b)**; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.
- F3** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 54**
- F4** Words in Sch. 4 para. 15(2) substituted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 23(c)**; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

- 16 (1) The Commissioners may make rules prescribing the procedure to be followed in claiming and determining rights to and amounts of compensation under this Schedule, and in altering, terminating or suspending payments of compensation, [<sup>F5</sup>and also (except so far as it is regulated by rules made under Part I of the Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988) the procedure in proceedings before the Appeal Tribunal and in any other proceedings under this Schedule.]
- (2) Rules made in pursuance of this paragraph shall be laid before the General Synod, and shall not come into operation unless and until they have been approved by the General Synod; and the <sup>M5</sup>Statutory Instruments Act 1946 shall apply to any rules so approved as if they were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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**Textual Amendments**

**F5** Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 14(1), **Sch. 2 para. 4**

**Marginal Citations**

**M5** 1946 c. 36.

17 ..... **F6**

**Textual Amendments**

**F6** Sch. 4 para. 17 repealed by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 18(2), **Sch. 3**

18 Payments of compensation under this Schedule shall be made by the diocesan board of finance and charged either on the capital or the income account of the diocesan stipends fund, as may be agreed by the Commissioners and the diocesan board of finance.

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