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STATUTORY INSTRUMENTS

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**2009 No. 2108**

**The Ecclesiastical Offices (Terms of Service) Regulations 2009**

**PART V**

**TIME OFF WORK, TIME SPENT ON OTHER DUTIES AND SICKNESS**

*Time off and annual leave*

**Weekly rest period**

**21.**—(1) An office holder shall be entitled to an uninterrupted rest period of not less than 24 hours in any period of seven days, but the statement of particulars of office issued under regulation 3 above may specify that any rest period may not be taken on or include a Sunday or any or all of the principal Feasts of the Church of England or Ash Wednesday or Good Friday.

**Annual leave**

**22.**—(1) An office holder occupying a full-time post shall be entitled to thirty six days annual leave or such greater amount as may be specified in the statement of particulars of office in any calendar year without any deduction of any stipend to which the office holder is entitled, but the statement of particulars may specify particular days on which annual leave shall or may not be taken and may, in particular, specify the maximum number of Sundays on which annual leave may be taken.

(2) During the first calendar year of the appointment, the amount of leave which an office holder may take at any time in exercise of the entitlement under paragraph (1) above is limited to the amount which is deemed to have accrued in his or her case at that time under paragraph (3) below, as modified by paragraph (4) where that paragraph applies, less the amount of leave (if any) that he or she has already taken during that year.

(3) For the purposes of paragraph (2) above leave is deemed to accrue over the course of the first year of the appointment at a rate which is proportionate to the proportion of the calendar year remaining after the date on which the appointment begins.

(4) Where the amount of leave that has accrued in a particular case includes a fraction of a day the fraction shall be treated as a whole day.

(5) For the purposes of paragraph (1) above, the amount of leave allowed by that paragraph shall exclude any period of special leave allowed by the diocesan bishop (or in the case of an office holder who is a diocesan bishop, the archbishop of the province in which the diocese is situated), including any such leave granted for the purposes of removal and re-settlement.

(6) Paragraphs (3) and (4) above shall apply during the final calendar year of the appointment as they apply during the first such year.

(7) An office holder occupying a part-time post shall be entitled to such period of annual leave as may be specified in the statement of particulars of office given to the office holder under regulation 3 above and paragraphs (2) to (5) above shall apply accordingly.

*Maternity, paternity, parental and adoption leave and time spent on public duties*

**Entitlement to maternity, paternity, parental and adoption leave**

**23.**—(1) An office holder shall be entitled to maternity, paternity, parental and adoption leave and time off work to care for dependants in accordance with directions given by the Archbishops' Council, in the exercise of its functions as the Central Stipends Authority, and any directions given by the Council under this paragraph may—

- (a) provide for the payment of his or her stipend during any such periods of leave,
- (b) impose conditions on any such entitlement, and
- (c) impose requirements as to the procedures for applying for any such entitlement.

(2) In giving any directions under paragraph (1) above the Council shall have regard to the corresponding rights given to employees under Part VIII of the Employment Rights Act 1996(1).

(3) A draft of any directions proposed to be made by the Archbishops' Council under this regulation shall be laid before the General Synod and, if they are approved by the General Synod, whether with or without amendment, the draft directions as so approved shall be referred to the Archbishops' Council.

(4) Where the draft directions are referred to the Archbishops' Council under paragraph (3) above then—

- (a) if they have been approved by the General Synod without any amendment, the Archbishops' Council shall, by applying its seal, make the directions;
- (b) if they have been approved by the General Synod with amendment, the Archbishops' Council may either—
  - (i) by applying its seal make the directions as so amended, or
  - (ii) withdraw the draft directions for further consideration in view of any amendment by the General Synod;

and the directions shall not come into force until they have been sealed by the Archbishops' Council.

(5) Where the Business Committee of the General Synod determines that draft directions do not need to be debated by the General Synod, then, unless—

- (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he or she wishes the draft directions to be debated, or
- (b) notice is give by any such member that he or she wishes to move an amendment to the draft directions,

the draft directions shall, for the purposes of paragraphs (3) and (4) above, be deemed to have been approved by the General Synod without amendment.

(6) The Statutory Instruments Act 1946(2) shall apply to any directions sealed by the Archbishops' Council under paragraph (4) above as if they were a statutory instrument and were made when sealed by the Archbishops' Council and as if these regulations were an Act providing that any such directions shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Right to time spent on public duties**

**24.**—(1) An office holder may, subject to paragraph (2) below, spend time on public duties other than the duties of his or her office.

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(1) 1996 c.18.  
(2) 1946 c..36.

(2) The amount of time which an office holder may spend on public duties under this regulation, the occasions on which and any conditions subject to which the time may be spent, are those that are reasonable in all the circumstances, having regard, in particular, to—

- (a) how much time is required for the performance of the particular public duty;
- (b) how much time has already been spent on public duties under this regulation;
- (c) the nature of the office and its duties and the effect of the absence of the office holder on the performance of the duties of the office; and
- (d) any remuneration which the office holder is entitled to receive in connection with the duties of the office.

(3) In the event of any dispute as to any of the matters referred to in sub-paragraph (2) above, the matter shall be determined by the diocesan bishop or, in the case of an office holder who is a diocesan bishop, the archbishop of the province in which the diocese is situated.

(4) In this regulation “public duties” means—

- (a) any work done for a public authority, including membership of a court or tribunal, or for a charity within the meaning of the Charities Act 2006<sup>(3)</sup> or an incorporated or a registered friendly society, and
- (b) any work done in connection with the activities of an independent trade union representing office holders of a description which includes the person in question.

#### **Right to time off for ante-natal care**

**25.**—(1) An office holder who—

- (a) is pregnant, and
- (b) has, on the advice of a registered medical practitioner, registered midwife or registered health visitor, made an appointment to attend at any place for the purpose of receiving ante-natal care,

is entitled to take time off during her working hours in order to enable her to keep the appointment.

(2) As soon as is reasonably practicable after the office holder’s pregnancy is confirmed, she shall notify the officer of the diocese nominated under regulation 3(1)(a) above.

#### **Payment of stipend during time off or time spent on public duties**

**26.**—(1) An office holder who takes any time off or spends time on public duties to which he or she is entitled under regulations 24 or 25 above and who is, under the terms of his or her service, entitled to the payment of a stipend, shall not suffer any reduction in his or her stipend during the time off or time spent on public duties, as the case may be, except, in the case of time spent on public duties, such reduction, if any, as may be specified in the statement of particulars of office given under regulation 3 above (including any statement of changes given under regulation 6 above).

### *Sickness*

#### **Sickness**

**27.**—(1) If an office holder who is in receipt of a stipend is unable to perform the duties of his or her office because of illness for a period of one working day or longer he or she must report

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(3) 2006 c.50.

the absence to the person nominated for the purposes of regulation 3 above, who shall inform the Commissioners and, if the report is in writing, send them a copy thereof.

(2) If an office holder is absent from work because of illness for a continuous period of more than seven days he or she must supply the person nominated as aforesaid with a certificate signed by a qualified medical practitioner and that person shall send a copy of the certificate to the Commissioners.

(3) An office holder who is absent from work because of illness must use all reasonable endeavours to make arrangements for the duties of the office to be performed by another person during the absence which may, where appropriate, consist of notifying a responsible person or authority of the absence.

(4) If an office holder is entitled to receive statutory sick pay under Part XI of the Social Security and Contributions and Benefits Act 1992<sup>(4)</sup> for any period of absence from work, the office holder shall be entitled during that period to receive in full any stipend which is payable in respect of the office.

(5) The diocesan bishop or, in the case of an office holder who is a diocesan bishop, the archbishop of the province in which the diocese is situated, may, if he is satisfied that the office holder is, by reason of illness, unable adequately to discharge the duties of his or her office, permit the office holder to be absent from work for such period as he thinks appropriate and may make provision for the discharge of those duties during the period of absence of the office holder.

(6) When giving any directions under section 5(2) of the Diocesan Stipends Funds Measure 1953<sup>(5)</sup> in relation to the payment of a stipend to an office holder who is absent from work for illness for any period after the date on which he or she is entitled to receive statutory sick pay under the said Part XI, a diocesan bishop shall have regard to any guidance issued by the Archbishops' Council in the exercise of its functions as the Central Stipends Authority.

### **Medical examination**

**28.**—(1) The diocesan bishop or, in the case of an office holder who is a diocesan bishop, the archbishop of the province in which the diocese is situated may, if he has reasonable grounds for concern about the physical or mental health of an office holder, direct that the office holder shall undergo a medical examination by a medical practitioner selected by agreement between the bishop (or archbishop) and the office holder or, in default of agreement, by medical practitioners consisting of a practitioner chosen by each party.

(2) If an office holder fails to comply with a direction given under paragraph (1) above or fails to disclose or authorise the disclosure of any relevant medical records, when requested to do so, any person or body responsible for operating any capability procedures in respect of the office holder may draw such inferences as appear to that person or body to be appropriate having regard to all the circumstances.

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(4) 1992 c.4

(5) 1 & 2 Eliz. No.2