## **Clergy Bill 2022**

*[Draft 12]*

*[Consultation Draft]*

A Bill for an Act

To provide for the selection, appointment, continuation in office, cessation, remuneration, and conditions of engagement of clergy and certain others in ministry in the Diocese, to repeal and re-enact certain provisions in the **Appointments Act 1971**, the **Archdeacons (Qualification) Act 1994**, the **Assistant Bishops Act 1985**, and the **Superannuation of Clergy Act 2005**, to amend the **Interpretation of Diocesan Legislation Act 2016**, the **Melbourne Archbishopric Act 2002**, the **Parish Governance Act 2013**, and the **Synod Act 1972**, and to repeal the **Diocesan Stipends Act 1991**

**Preamble**

1. The Anglican Church understands that it is apostolic in that its whole body of believers is called to faithfulness in the apostolic gospel, in mission, and in service to the world. Within that understanding, the Anglican Church recognises a three-fold order of the ordained ministry comprising bishops, priests and deacons. (These are orders of ministry, rather than ministry appointments, and the understanding of the Church is that members of the order of bishops continue also to be priests and deacons, and priests continue also to be deacons.) Members of this ordained ministry have been called and set aside to ensure that the ministries of leadership which were present in the early Church and which were reconsidered and refreshed at the Reformation—ministries of leadership in public worship, preaching the word of God, administering the sacraments, pastoral oversight, and service to the world—are maintained and exercised for our own times, and given due authority.
2. In the Anglican Church, ordinations are invariably authorised and conducted by bishops, but the office of ordained ministry is also understood as inextricably linked with the local congregation where the ministry is to be exercised, and with the ministry itself. There are several practical outcomes of this understanding. First, a candidate for ordination must exhibit the requisite qualities for ordained ministry, and all ordinations are public, requiring the affirmation of the congregation present. Second, ordained ministry—whatever its particular focus— is regarded as always requiring a pastoral relationship with those receiving the ministry. Third, when an appointment is made of an ordained minister, every effort is made to incorporate representative views of those among whom the ministry will be exercised, such as a parish or school. This is the case even though the appointments of ordained ministers are ultimately those of the bishop of the diocese where the ministry will be exercised.
3. Although bishops have a particular role in ordinations and appointments, in the leadership of clergy and lay people, and as the chief ministers of dioceses, it is the synods (both General and diocesan) which pass the legislation governing the operation of the ordained ministry. The enacting of this new clergy legislation is an outworking of that synodical responsibility. It is a recognition that the ordained ministry needs to be ‘rightly, orderly and lawfully consecrated and ordered’ (Article of Religion XXXVI) in all its aspects, and that a special-purpose, consolidated Act is a substantial contribution towards that.
4. The Anglican Church recognises the ongoing work of the Holy Spirit, both within the Church and its members, and in the world. It is beholden upon the Church to discern the changes in the world around us which are of God and may be incorporated into our practices as the people of God. For example, the growing concern in Australia for safe working conditions has been adopted by this diocese, as has been the growing practice of seeking to resolve conflicts within communities by processes of mediation and reconciliation. Further, the recent developments outside the Church in work performance evaluation is no longer regarded as incompatible with ordained ministry as a calling, but rather as a means of further developing and enhancing that calling.
5. The Diocese of Melbourne affirms that members of the three-fold order of the ordained ministry may be drawn from Indigenous and non-Indigenous Australians, all ethnicities, language groupings and abilities, without regard to gender, and from young and old adults.

BE IT ENACTED by the Archbishop, the Clergy and the Laity of the Anglican Church of Australia within the Diocese of Melbourne in Victoria duly met in Synod according to law as follows:

## **Part 1 - Preliminary**

**1 Commencement**

This Act comes into operation on 1 January 2023.

### **2 Definitions**

(1) In this Act—

***acting vicar***means a clerk appointed under section 53;

***appointment continuation review*** means a review conducted under subdivision 3 of Division 1 of Part 5 or Division 2 of Part 5;

***appointment continuation review committee*** means the committee constituted under section 42;

***appointment end date*** means the date on which a current fixed-term appointment will end if the appointment is not confirmed or extended;

***appraisal*** means an appraisal undertaken, or purportedly undertaken, as required by a determination of the Archbishop in Council under section 18;

***approved stipend continuance policy*** means an insurance policy, or a class of insurance policy, approved for the purposes of this section by Archbishop in Council for the time being that provides for stipend continuance payments;

***Diocesan consultant*** means a person appointed as a Diocesan consultant under section 28, and in the case of any particular parish nominations committee means that Diocesan consultant assigned to that committee under section 31.

***intentional interim vicar*** means a priest appointed as an intentional interim vicar under section 53;

***licensed***means holding the licence of the Archbishop;

***parish nominator*** means a person holding the office of parish nominator in a parish by virtue of Division 3 of Part 4 of the **Parish Governance Act 2013**;

***priest***means a clerk in full orders;

***stipend continuance payments*** means payments under an insurance policy, or class of insurance policy, to a priest during the temporary disability of the priest in lieu of stipend at a rate not less than 150% of the stipend of the priest before the commencement of the disability.

(2) A reference in this Act other than in Part 2 to an ***assistant bishop*** is a reference to a bishop or priest appointed by the Archbishop to perform in relation to a priest or a parish the functions under this Act of an assistant bishop and, in the absence of such an appointment, is a reference to the Archbishop.

(3) A reference in this Act to an appointment being ***confirmed*** is a reference to the term of an appointment that is subject to a period of probation being extended for the remainder of the term of the appointment.

(4) Unless otherwise provided, a reference in this Act to a ***parish*** includes a reference to an Authorised Anglican Congregation.

**3 Application of the Act**

(1) Except where otherwise provided, this Act does not apply to the appointment, institution, term of office or tenure of a clerk appointed or instituted to the Cathedral Church of St Paul.

(2) Subject to subsection (1), this Act applies to any clerk resident in or exercising ministry in the Diocese of Melbourne.

**4 Status of clergy to whom this Act applies**

A person in Holy Orders to whom Division 2 of Part 4 appliesis the holder of a spiritual office and is not an employee.

**Note:**

Because such a person is not an employee, the secular law of employment does not apply to their relationship with the church.

## **Part 2 – Assistant bishops**

**5 Making and filling an appointment as an assistant bishop**

(1) Subject to subsection (2), the Archbishop in Council must by resolution agree to any office of assistant bishop being filled.

(2) There may not at any time be more than six clerks holding the office of assistant bishop.

(3) The majority of the members of the Council of the Diocese must concur with the Archbishop in who is to be appointed as an assistant bishop.

**6 Confirmation as to canonical fitness**

(1) Before a priest appointed as an assistant bishop can be consecrated, their canonical fitness must be confirmed in writing by a majority of the diocesan bishops of the Province of Victoria including the Metropolitan.

(2) In the event of an equality of votes under subsection (1), the Metropolitan has an additional casting vote.

(3) In this section, ***canonical fitness*** has the same meaning that it has in section 74(1) of the Constitution of this Church.

**7 Duties and other offices**

(1) An assistant bishop while in office—

(a) bears the title determined by the Archbishop; and

(b) must perform the duties of the role and exercise episcopal authority as and when directed by the Archbishop.

(2) An assistant bishop may not without the approval of the Archbishop in Council hold an office, other than that of assistant bishop, that requires a clergy authorization.

**8 Periods of appointment and extension**

(1) An assistant bishop is appointed for 10 years from the date of their installation.

(2) An assistant bishop may have their term of appointment extended by the Council of the Diocese for a period of five years one or more times.

**9 Review for extension of appointment**

(1) At least six months before the appointment end date, the Archbishop must ask the assistant bishop whether they would wish to continue as an assistant bishop after the appointment end date.

(2) If the assistant bishop has informed the Archbishop that they wish to continue as assistant bishop after the appointment end date, the Archbishop must determine whether to recommend to the Council of the Diocese that the assistant bishop's appointment be extended by five years.

(3) If six months before the appointment end date of an assistant bishop there is—

(a) a charge against them under the **Diocesan Tribunal Act 2021**; or

(b) an allegation of misconduct being considered under the **Professional Standards Uniform Act (Melbourne) 2016**—

the Archbishop must determine that the process to determine whether the term of the assistant bishop should be extended—

(a) is to proceed immediately; or

(b) should commence at a time (not exceeding six months) after the charge or allegation of misconduct has been finally disposed of.

(4) In this section ***appointment end date*** means the date on which, in the absence of an extension under this section, the assistant bishop's term of office would end.

## **Part 3 – Archdeacons and holders of other offices**

**11 Qualification to be an archdeacon**

A clerk who has been in Holy Orders for more than six years is qualified to be an archdeacon.

**12 Archdeacon's term of office**

An archdeacon holds office for the term (defined by reference to a period of time or a specified event) specified in their clergy authorization.

**13 Other offices**

(1) Subject to this section, the Archbishop may create other offices and appoint clerks to them, and remove clerks from those offices.

(2) This section does not apply to an office in the Cathedral or in a parish.

## **Part 4 – Clergy**

**Division 1 — Permission to function**

**14 Clergy to have clergy authorization**

(1) A clerk may exercise ministry or perform the functions of a clerical office only if they have a clearance for ministry within the meaning of the **Professional Standards Uniform Act 2016 (Diocese of Melbourne)** and a clergy authorization.

(2) A clerk must comply with any condition or other requirement in the clergy authorization.

**15 Licensing of clergy**

(1) Subject to this Act, a person may be licensed regardless of their age.

(2) A clerk who is—

(a) a vicar;

(b) an intentional interim vicar;

(c) a parish minister remunerated under a determination under section 20 at a full-time equivalent of 0.5 or greater; or

(d) a curate—

must be licensed.

(3) A clerk who is a parish minister remunerated under a determination under section 20 at a full-time equivalent of less than 0.5 may be licensed.

(4) A role, office or position of—

(a) acting vicar;

(b) honorary parish minister (however described)—

is not a role, office or position to which a priest may be licensed.

(5) A clerk resigns from a position to which they are licensed by doing so in writing to the Archbishop.

**Note:**

This section does not affect the inherent powers and authority of the Archbishop to license a clerk to a role or office in the Diocese that is not a role or office referred to in sub-sections (2), (3) or (4) of this section.

**16 Permission to officiate**

The Archbishop may give a clerk permission to officiate generally, specifically, or on a single, specific occasion.

**Note:**

A clerk given permission to officiate on a single, specific occasion is not necessarily exercising ministry on that occasion.

**17 Retirement**

(1) This section applies subject to this Act.

(2) A clerk who holds an office for a specified term holds that office until the end of that term, or if the term is extended, until the end of that term as extended.

(3) A clerk who holds an office for an indefinite term ceases to hold the office on attaining 70 years of age.

**18 Professional development, supervision and appraisal**

(1) A clerk holding a clergy authorization must comply with any requirements regarding professional development, professional supervision and appraisal that the Archbishop in Council determines are to apply in this Diocese.

(2) For the purposes of this section, the Archbishop in Council may determine that the requirements are those recommended by the Standing Committee of General Synod as varied from time to time.

**Division 2 — Remuneration and working conditions**

**19 Application of this Division**

The remuneration, benefits, allowances, provisions and working conditions determined under this Division apply to clerks and lay persons holding a clergy authorization—

(a) except to the extent that they are in an employment or other contractual relationship with an institution, entity or agency other than the Diocesan Corporation; and

(b) other than the Dean and other Cathedral clergy.

**20 Remuneration and working conditions of clergy**

(1) The Archbishop in Council must determine the remuneration, benefits, allowances, provisions and working conditions for the purposes of this Division.

(2) A determination must provide for the remuneration, benefits, allowances, provisions and working conditions of assistant bishops, and may also provide for one or more of the remuneration, benefits, allowances, provisions and working conditions of archdeacons, area deans, canons to the ordinary and others holding offices established under section 13.

(3) The matters for which provision may be made in a determination include the amount to be contributed towards the superannuation of a clerk covered by the determination by—

(a) the Diocesan Corporation, up to 25 per cent of the base remuneration under the determination;

(b) the parish, up to 15 per cent of the base remuneration under the determination; and

(c) that clerk, up to 10 per cent of the base remuneration under the determination.

(4) A determination may provide differently for different classes of persons, and for different persons within a class of persons.

(5) A determination may be varied at any time, and must be reviewed at least annually.

(6) A determination must be in writing and made publicly available on the Diocesan website.

(7) This section does not prevent a vicar or parish minister from receiving remuneration or having other terms and conditions determined by the parish council that are more advantageous than the remuneration, terms or conditions determined by the Archbishop in Council under this section.

**21 Process to determine the remuneration and working conditions of clergy**

(1) The Archbishop in Council must establish a committee or a subcommittee for the purposes of managing the requirements of this section and providing the advice required under subsection (4)(d).

(2) The membership of the committee or subcommittee established under subsection (1) must include at least—

(a) one clerical and one lay member of the Archbishop in Council;

(b) two members of the clergy who are not members of the Archbishop in Council or of any of its other committees or subcommittees and who are members of clergy affected by a determination;

(c) two churchwardens who are not members of the Archbishop in Council or of any of its other committees or subcommittees; and

(d) one person with expert knowledge in determining professional remuneration; and

(e) one person with expert knowledge in industrial awards, agreements and conditions of employment.

(3) Before making or varying a determination, and as part of reviewing a determination, the Archbishop in Council must—

(a) engage to advise and assist it persons who provide specialist advice in professional remuneration and working conditions, including in the not-for-profit sector;

(b) seek the advice of the Diocesan Corporation;

(c) seek by public advertisement submissions from interested stakeholders, including from members of Synod, affected clergy and lay persons, and churchwardens; and

(d) at its discretion, meet with anyone who has provided advice or made submissions.

(4) At the time when it makes or varies a determination, the Archbishop in Council must have before it in writing—

(a) all the advice received from experts engaged for the purpose of providing that advice;

(b) the advice of the Diocesan Corporation;

(c) all submissions received from or on behalf of an industrial organization, affected clergy and lay persons, churchwardens and other stakeholders; and

(d) the advice of the committee established under subsection (1).

(5) A resolution approving a determination must be supported by—

(a) a majority of the clerical members of the Archbishop in Council present and voting; and

(b) a majority of the lay members of the Archbishop in Council present and voting; and

(c) the Archbishop.

(6) Despite any law to the contrary, a member of the Archbishop in Council may take part in the discussion or decision about a determination but may not in the discussion refer to how anything in the proposed determination will or might affect that member or a member of their immediate family.

(7) In this section ***industrial organization*** means an organization that is registered or recognised under a State or Commonwealth Act or enactment as—

(a) an organization of employees;

(b) an organization of employers;

(c) any other organization established for the purposes of people who carry on a particular industry, trade, profession, business or employment.

**22 Remuneration and benefits of assistant bishops**

The Archbishop in Council is responsible for meeting the entitlements of assistant bishops under a determination and (whether or not they constitute such an entitlement) for—

(a) providing a suitable residence free of any charge in respect of rent, rates and taxes, maintaining it in good repair and insuring it; and

(b) an allowance for travelling and other expenses incidental to the office of the assistant bishop.

***Note: MADC is providing advice on this Division***

**Division 3 — Removal on the grounds of unfitness**

**23 Recommendation to review capacity**

(1) A recommendation may be made to the Archbishop that a process be put in place to determine whether a clerk is by reason of physical or mental incapacity unable for more than six months to perform the duties of the office, role or position for which they hold a clergy authorization.

(2) In the case of a clerk engaged in parish ministry any two of the relevant assistant bishop, the relevant archdeacon and the Chief Executive Officer of the Diocesan Corporation may make the recommendation.

(3) In the case of a clerk not in parish ministry any recommendation must be made by the Chief Executive Officer of the Diocesan Corporation.

**24 Actions following recommendation**

(1) Following a recommendation under section 23, the Archbishop may commence a process to determine whether the clerk is unable by reason of physical or mental incapacity to perform the role, or one or more of the roles, to which they are licensed.

(2) Where the recommendation provides sufficient evidence to warrant a temporary suspension of the licence, the Archbishop may suspend the clerk’s licence for up to 30 days.

**25 Medical report**

(1) Subject to this section, if the Archbishop commences a process under section 24, the Diocesan Corporation must obtain, at its expense, a medical report by both a medical practitioner appointed by the Diocesan Corporation and a medical practitioner nominated by the clerk or their representative.

(2) If the medical practitioners appointed under subsection (1) cannot agree then the opinion will be sought of a third medical practitioner nominated jointly by the Diocesan Corporation and the clerk or their representative.

**Division 3 — Removal on the grounds of unfitness**

(3) If the clerk or a representative of the clerk does not appoint a medical practitioner for the purposes of subsection (1), the report is to be provided by two medical practitioners appointed by the Diocesan Corporation and, if they cannot agree, by a third medical practitioner appointed by the Diocesan Corporation.

**26 Action following medical report**

If a majority of the medical practitioners appointed under section 25 consider that the clerk is by reason of physical or mental incapacity unable to perform the duties of their position or office for more than six months, the Archbishop may remove the clerk's clergy authorization or suspend it for a period of not more than 12 months, but in either case the clerk remains eligible for any outstanding sick leave.

## **Part 5 – Clergy in parishes**

### **Division 1 – Vicars**

### **Subdivision 1 — Selecting priests for appointment as vicars**

**27 Parish nominations committee**

(1) The parish nominations committee of a parish comprises:

 (a) the assistant bishop; and

(b) the parish nominators.

(2) At every meeting of the parish nominations committee—

 (a) the Diocesan consultant; and

 (b) the relevant Archdeacon—

 are entitled to be present and to contribute fully to the business of the meeting. They do not have a vote.

**28 Diocesan consultants**

(1) The Archbishop in Council must establish and maintain a panel of between 12 and 16 Diocesan consultants.

(2) There is a single panel of Diocesan consultants for the whole of the Diocese.

(3) The primary, but not only, role of a Diocesan consultant is to advise and support the parish nominators in their work as members of the parish nominations committee.

(4) A person is qualified to be a Diocesan consultant if they are a communicant member of this Church and have a good knowledge of the church in the Diocese and experience in selecting people for appointment and are not the Archbishop, a member of the Archbishop in Council, a person entitled to be in attendance at a meeting of the Archbishop in Council, a director of the Diocesan Corporation or an archdeacon.

(5) Subject to subsection (1), the Archbishop in Council may at any time add a person to the panel of Diocesan consultants or remove a person from the panel of Diocesan consultants.

(6) Subject to subsection (7), a person cannot be a member of the panel of Diocesan consultants for a continuous period of more than six years.

(7) A Diocesan consultant who has been assigned to a parish nominations committee under section 31(3) and whose term as a Diocesan consultant expires under subsection (6) may continue to contribute to the work of that committee until it makes recommendation under section 34, but if that parish nominations committee resumes meeting under section 36 the Registrar must assign another Diocesan consultant.

**29 Parish nominations committee where vicar appointed to more than one parish under section 59 of the Parish Governance Act 2013**

Where under section 59 of the **Parish Governance Act 2013** the Archbishop has licensed or appointed a clerk to be the vicar in more than one parish that are parties to a co-operative agreement the parish nominators for the purposes of section 27 are the parish nominators of all of those parishes.

**30 Time when parish nominations committee to be convened**

(1) The time from which it is possible for a parish nominations committee to be convened is—

(a) six months before the date on which the current vicar is expected to take their last service in the parish;

(b) if so determined by the Archbishop, a date more than six months before the date on which the current vicar is expected to take their last service in the parish; or

(c) if—

(i) the vicar has given six months' notice or less of the date of their resignation; or

(ii) the vicar has ceased to be the vicar—

immediately.

**Note:**

Section 46 provides for when a priest ceases to be a vicar.

(2) For the purposes of this section, the date on which the vicar is expected to take their last service is to be determined by reference to—

(a) their formal notice to the Archbishop;

(b) the end of the term of their appointment when they have not indicated a wish for an extension or have not had their term extended; or

(c) the commencement date in the parish of an intentional interim vicar or an acting vicar.

**31 Convening the parish nominations committee**

(1) The assistant bishop must instruct the Registrar to convene the parish nominations committee within two months of the time from which it is possible to convene it unless in the meantime—

(a) an intentional interim vicar has been appointed; or

(b) the assistant bishop, the relevant archdeacon and the parish council (by an absolute majority of its lay members) have agreed that the process of filling the vacancy be suspended for a period of time that has been specifically agreed and set, and notified to the Registrar in writing; or

(c) the right of appointment has been given to the Archbishop on the recommendation of the assistant bishop and with the concurrence of an absolute majority of the lay members of the parish council by a decision at a duly convened meeting.

(2) Where under subsection (1) an intentional interim vicar has been appointed or the process for filling a vacancy has been suspended for a period of time, the assistant bishop must instruct the Registrar to convene the parish nominations committee four months before the end of the term of the appointment of the intentional interim vicar, or four months before the end of the period of time for which the process of filling the vacancy was suspended.

(3) When instructed to convene a parish nominations committee under this section, the Registrar must—

(a) assign a Diocesan consultant, so far as possible by rotation from the panel of Diocesan consultants;

(b) arrange for the first meeting of the parish nominations committee to be held within one month of the instruction.

**32 Commitment to confidentiality**

(1) A Diocesan consultant must sign and provide to the Registrar a confidentiality statement within 30 days of being appointed.

(2) A parish nominator is eligible to participate in the work of the parish nominations committee only if they have signed and provided to the Registrar a confidentiality statement before the first meeting of a parish nominations committee.

(3) The position of a parish nominator who is not eligible to participate in the work of the committee under subsection (2) does not become vacant by reason of that ineligibility.

(4) The Archbishop in Council may prescribe a form of confidentiality statement for the purposes of this section.

(5) A form prescribed under subsection (4) and under section 43(5) must not inhibit a member of the parish nominations committee or the appointment continuation review committee from taking any action available to them under Diocesan legislation in relation to an offence under the **Offences Act 1962** or misconduct under the **Professional Standards Uniform Act 2016 (Diocese of Melbourne).**

**33 Functioning of parish nominations committee**

(1) The parish nominations committee is chaired by the assistant bishop.

(2) The parish nominations committee must consider for appointment as vicar of the parish, the priests whose names are put forward by the assistant bishop, the Diocesan consultant, or a parish nominator and any priest whose name is submitted by the Archbishop.

(3) The Archbishop in Council must prescribe systems and processes to be followed by parish nominations committees to ensure that a diverse range of clergy (including both male and female clergy) are considered for all appointments.

(4) A parish nominations committee must adhere to the systems and processes prescribed under subsection (3).

**34 Agreement by the parish nominations committee**

(1) A recommendation by the parish nominations committee must be agreed to by the assistant bishop and by a majority of the parish nominators.

(2) Upon the parish nominations committee reaching agreement, the assistant bishop must report to the Archbishop—

1. the decision of the parish nominations committee;
2. the terms of the agreement; and
3. whether the clerk, or the clerks, recommended for appointment should be subject to a period of probation.

(3) When the appointment is less than full time, the terms of the agreement are to include the details of the proposed part-time arrangement.

(4) The report must state the number of male and number of female priests who were interviewed.

**35 Actions following receipt of report**

(1) Subject to this section, on receipt of a report under section 34 the Archbishop must offer the appointment to the priest proposed by the parish nominations committee.

(2) If the parish nominations committee has selected more than one candidate, the Archbishop must make the offer in the order of preference put forward by the parish nominations committee.

(3) Before making an offer, the Archbishop must be satisfied of the priest’s canonical fitness and that the clerk has satisfied all legal requirements.

**Note:**

An offer of appointment is not a clergy authorization. However, there may be legal requirements that must precede even an offer of appointment.

(4) The Archbishop may decline to accept a recommendation and send the matter to the parish nominations committee for a further recommendation.

**36 Further proposals**

If—

(a) none of the priests offered an appointment accepts it; or

(b) a priest accepts the appointment offered but is unable to obtain a clearance for ministry or for some other reason is unable to take up the appointment—

the Archbishop must direct the Registrar to cause the parish nominations committee to resume meeting as soon as reasonably possible.

**37 Involvement of the Archbishop**

(1) The Archbishop may at any time initiate a meeting of the assistant bishop and parish nominators.

(2) If no appointment has been recommended within 12 months of a parish nominations committee first meeting, the Archbishop may, and if none has been recommended within 18 months the Archbishop must, meet with the parish nominations committee, including the archdeacon and the diocesan consultant.

(3) Following a meeting under subsection (1)—

(a) the Archbishop may put in place other processes to assist the parish nominations committee to bring forward a recommendation; or

(b) the right of appointment may be given to the Archbishop on the recommendation of the assistant bishop and with the concurrence of an absolute majority of the lay members of the parish council by a decision at a duly convened meeting.

### **Subdivision 2 — Appointment and institution**

**38 Effect of acceptance**

(1) When a priest accepts the offer of an appointment as vicar of a parish, and once—

(a) the priest has a clearance for ministry;

(b) the Archbishop is satisfied that due provision has been made or arranged in respect of superannuation (unless the need for superannuation has been dispensed with by this Act);

(c) any other necessary forms and arrangements have been completed—

the Archbishop must institute the priest to the parish—

(d) as soon as possible if the parish is already vacant; or

(e) as soon as the parish becomes vacant.

**Note:**

A necessary form or arrangement will usually include a commitment by the churchwardens to meet the remuneration, terms and conditions that are to apply.

(2) For the purposes of this section, a parish is vacant at the time when there is not a priest licensed as its vicar or intentional interim vicar.

**39 Oaths and declarations**

Before being instituted as a vicar, a priest must take the oaths and make the declarations and subscription that are required by law and by the practice of the Anglican Church of Australia in Victoria.

**40 Institution vacates previous appointment**

Except where a priest is a vicar of more than one parish under section 59 of the **Parish Governance Act 2013** and the institution of a priest is to one of those parishes, a priest who is instituted to a parish ceases to be the vicar of any other parish.

**Subdivision 3—Duration of time in office**

**41 Periods of appointment and extension**

(1) Subject to this section, a vicar is appointed for 10 years from the date of their institution.

(2) A vicar is appointed with a review period of 24 months from the date of their institution if at the time of their institution—

(a) it is less than five years since the date of their ordination as a priest; or

(b) they have not previously been licensed as a vicar in the Diocese; or

(c) the Archbishop so determines on the recommendation of the parish nominations committee.

(3) The Archbishop may—

(a) in a particular case, determine that there is to be no review period; or

(b) reduce the review period of either at the time when the priest is instituted to the parish or at any time before a review commences under this Act.

(4) A vicar may have their term of appointment extended for a period of five years one or more times.

**42 Process of review and extension**

(1) The appointment continuation review committee comprises the assistant bishop, all the churchwardens and all the parish nominators of the vicar's parish or parishes.

(2) The relevant archdeacon is not a member of the appointment continuation review committee but is entitled to be present and speak at each of its meetings.

(3) The function of an appointment continuation review committee is to decide whether to recommend to the Archbishop—

(a) in the case of a vicar appointed with a review period, whether the vicar should be confirmed in the appointment; or

(b) whether the term of the vicar's appointment should be extended under section 41(4).

(4) Subject to subsection (5), a decision of the appointment continuation review committee must be supported by—

(a) the assistant bishop; and

(b) a majority of the lay members of the committee.

(5) Before an assistant bishop votes not to support a decision supported by all the other members of the appointment continuation review committee, the assistant bishop must have consulted with the Archbishop and informed the Archbishop that all the other members of the committee support a decision and what the decision is that those other members support.

**43 Convening the appointment continuation review committee**

(1) At least six months before the appointment end date, the assistant bishop must ask the vicar whether they would wish to continue as vicar in the parish after the appointment end date.

(2) If the vicar has not at least five months before the appointment end date informed the assistant bishop that they would wish to continue as vicar in the parish after the appointment end date, the parish becomes vacant on the appointment end date.

(3) If the vicar has at least five months before the appointment end date informed the assistant bishop that they wish to continue as vicar in the parish after the appointment end date, the assistant bishop must instruct the Registrar to convene the appointment continuation review committee.

(4) Following an instruction from the assistant bishop under subsection (4), the Registrar must convene a meeting of the appointment continuation review committee within 28 days.

(5) A member of an appointment continuation review committee is eligible to participate in the work of the committee only if they have signed and provided to the Registrar a confidentiality statement in a form prescribed by the Archbishop in Council before the first meeting of the committee.

(6) The position of a member of an appointment continuation review committee who is not eligible to participate in the work of the committee under subsection (5) does not become vacant by reason of that ineligibility.

**44 Operations of the appointment continuation review committee**

(1) The Archbishop in Council may prescribe systems and processes to be followed by an appointment continuation review committee.

(2) The systems and processes prescribed must—

(a) enable a balanced and fair assessment of the past and expected future functioning of the vicar in the parish;

(b) allow for the vicar to contribute to any assessment under paragraph (a);

(c) allow the vicar to engage with the committee regarding the vicar's work to date in the parish and how that should be viewed in relation to the vicar continuing as vicar; and

(d) require the committee to have regard to any appraisal of the vicar of which it is made aware.

 (3) The appointment continuation review committee and the vicar must not invite or seek to present for the consideration of the committee the opinions of parishioners who are not on the committee other than any opinions contained in an appraisal referred to in subsection (2).

**45 Appointment continuation review where there are professional standards complaints or charges**

(1) This section applies when six months before the appointment end date of a vicar there is—

(c) a charge against them under the **Diocesan Tribunal Act 2021**; or

(d) an allegation of misconduct being considered under the **Professional Standards Uniform Act (Melbourne) 2016**.

(2) When this section applies and the vicar is suspended from their office as vicar pending the completion of the processes provided for under the relevant Act, the processes under this Act or otherwise in place to determine whether the appointment should be confirmed or extended are not to be commenced during that period of suspension.

(3) Where, by reason of subsection (2), the processes under this Act or otherwise in place to determine whether the appointment should be confirmed or extended are not to be commenced and the period of suspension ends before the appointment end date, the Archbishop may extend the appointment end date for a period of up to six months to allow those processes to occur.

(4) When this section applies and the vicar is not suspended from their office as vicar, the Archbishop must determine that the process to determine whether the term of the clerk should be confirmed or extended—

(a) is to proceed forthwith; or

(b) should commence at a time (not exceeding six months) after the charge or allegation of misconduct has been finally disposed of.

**46 Ceasing to be a vicar**

 (1) A vicar may not be removed as vicar during the term of their appointment against their will except in accordance with an Act of the Synod.

 (2) A priest ceases to be the vicar of a parish at the time when—

(a) they become the vicar of another parish (except where section 59 of the **Parish Governance Act 2013** applies) or (in the case of a full-time vicar) they take up some other office as a priest for which a stipend or salary is paid;

(b) the term of their appointment expires and—

(i) they have not been confirmed (in the case of a vicar subject to probation) or extended (in the case of a vicar not subject to probation); and

(ii) the time for the appointment continuation review has not been extended under section 43(3);

(c) their resignation has effect;

(d) they cease to hold a clearance for ministry or a clergy authorization;

(e) they are removed under the provisions of an Act of the Synod; or

(f) they become entitled to stipend continuance payments as a result of the acceptance of a claim under an approved stipend continuance policy.

**Division 2—Parish clergy other than vicars**

**47 Appointment of parish ministers and curates**

(1) The Archbishop alone may appoint a parish minister or a curate and alone may suspend or terminate that appointment.

(2) The vicar is responsible for recommending to the Archbishop the appointment of a clerk under subsection (1) and the remuneration and other terms and conditions of that appointment.

(3) Subject to this section, an appointment under subsection (1) is on the remuneration and other terms and conditions—

(a) recommended by the parish council under section 27 of the **Parish Governance Act 2013**; and

(b) determined by the Archbishop that are not inconsistent with the terms and conditions recommended under paragraph (a).

(4) A parish minister may be appointed to a role, office or position that is not remunerated.

(5) The Archbishop must consult with the vicar before exercising the power of appointment, suspension or termination unless it is impracticable to do so.

(6) The vicar is responsible for supervising and managing a parish minister.

(7) The vicar must consult with the churchwardens in relation to any course of action, recommendation or decision in relation to a clerk appointed under subsection (1) that—

(a) may result in their suspension or termination; or

(b) if the clerk was an employee, would constitute or may constitute dismissal or constructive dismissal.

(8) The churchwardens of a parish must indemnify the Diocesan Corporation from the funds of the parish arising from a claim made by a parish minister arising from an action, recommendation or decision referred to in subsection (8).

(9) This section does not derogate from the inherent powers or authority of the Archbishop.

**48 Periods of appointment and extension**

(1) Subject to this section, a parish minister is appointed for a term not exceeding 10 years from the date of their appointment.

(2) A parish minister appointed for a period of more than four years is appointed with a review period of 24 months from the date of their appointment if at that date—

(a) it is less than five years since the date of their ordination; or

(b) they have not previously been licensed in the Diocese; or

(c) the Archbishop so determines on the recommendation of the vicar.

 (3) The Archbishop may—

(a) in a particular case, determine that there is to be no review period; or

(b) reduce the period of probation either at the time when the priest is appointed to the parish or at any time before a review commences under this Act.

(4) Subject to section 49, a parish minister may have their term of appointment extended for a period not exceeding five years one or more times.

**49 Review for confirmation or extension of appointment**

(1) At least six months before the appointment end date, the vicar must determine whether to recommend to the parish council—

(a) that the role held by a parish minister is to continue after the appointment end date; and

(b) if the role is to continue, the amount of remuneration, terms and conditions, time fraction, and period of appointment that should apply to that role.

(2) If it is determined that the role is not to continue, the vicar must give notice to the parish minister and to the Archbishop that the role will not continue after the appointment end date.

(3) If the parish council decides that the role is to continue, and after it has determined the amount of remuneration, terms and conditions, time fraction, and period of appointment for the role, the vicar must—

(a) give notice to the parish minister at least five months before the appointment end date that the role is to continue and the amount of remuneration, terms and conditions, time fraction, and period of appointment applying to it; and

(b) ask the parish minister whether they would wish to continue as parish minister in that role in the parish after the appointment end date.

(4) If the parish minister has not at least four months before the appointment end date informed the vicar that they wish to continue as parish minister in the role referred to in subsection (3) after the appointment end date, their appointment ceases on the appointment end date.

(5) If the parish minister has at least four months before the appointment end date informed the vicar that they wish to continue in the role in the in the parish after the appointment end date, the vicar must determine whether the appointment is to be confirmed or extended.

(6) The vicar must decide whether to recommend to the Archbishop—

(a) in the case of a parish minister appointed with a review period, whether the parish minister should be confirmed in the appointment; or

(b) whether the term of the parish minister's appointment should be extended under section 48.

**50 Conduct of review**

(1) The Archbishop in Council may prescribe systems and processes to be followed by a vicar for the purposes of section 49.

(2) Any systems and processes prescribed must—

(a) enable a balanced and fair assessment of the past and expected future functioning of the parish minister in the parish;

(b) allow for the parish minister to contribute to any assessment under paragraph (a);

(c) allow the parish minister to engage with the vicar regarding the parish minister's work to date in the parish and how that should be viewed in relation to the parish minister continuing as parish minister; and

(c) require the vicar to have regard to any appraisal of the parish minister.

**51 Appointment continuation and review where there are professional standards complaints or charges**

(1) This section applies when six months before the appointment end date of a parish minister there is—

(a) a charge against them under the **Diocesan Tribunal Act 2021**; or

(b) an allegation of misconduct being considered under the **Professional Standards Uniform Act (Melbourne) 2016**.

(2) When this section applies and the parish minister is suspended from their role, office or position in the parish pending the completion of the processes provided for under the relevant Act, the processes under this Act or otherwise in place to determine whether the appointment should be confirmed or extended are not to be commenced during that period of suspension.

(3) Where, by reason of subsection (2), the processes under this Act or otherwise in place to determine whether the appointment should be confirmed or extended are not to be commenced and the period of suspension ends before the appointment end date, the Archbishop may extend the appointment end date for a period of up to six months to allow those processes to occur.

(4) When this section applies and the parish minister is not suspended from their office, the Archbishop after consultation with the vicar must determine that the process to determine whether the term of the parish minister should be confirmed or extended—

(a) is to proceed immediately; or

(b) should commence at a time (not exceeding six months) after the charge or allegation of misconduct has been finally disposed of.

**52 Ceasing to be a parish minister**

 A clerk ceases to be a parish minister when—

(a) the term of their appointment expires and—

(i) they have not been confirmed (in the case of a parish minister subject to probation) or extended (in the case of a parish minister not subject to probation); and

(ii) the time for the appointment continuation review has not been extended under section 51(3);

(b) their resignation has effect;

(c) they cease to hold a clearance for ministry or a clergy authorization;

(d) they are removed under the provisions of an Act of the Synod; or

(e) they become entitled to stipend continuance payments as a result of the acceptance of a claim under an approved stipend continuance policy.

**Division 3—Acting and intentional interim vicars**

**53 Appointment of acting vicar**

(1) The Archbishop may appoint an acting vicar during a period of vacancy in a parish, or when a vicar is suspended, to perform temporarily the functions of a vicar in a parish.

(2) An acting vicar is entitled to the remuneration, benefits and other terms and conditions agreed between them, the churchwardens and the Archbishop at the time of their appointment, as varied with the agreement of all of them from time to time.

(3) The remuneration, benefits and terms and conditions agreed under subsection (2) must not be inconsistent with the terms of any applicable determination of the Archbishop in Council under section 19.

(4) A priest who has been appointed an acting vicar of a parish under this section may not be instituted as the vicar of the parish at any time in the five years from when they cease to be the acting vicar.

**54 Appointment of intentional interim vicar**

(1) The Archbishop may act on the recommendation of the assistant bishop and parish council to appoint an intentional interim vicar during a period of vacancy in a parish.

(2) An intentional interim vicar is to be appointed to that office for an initial period of between 12 and 18 months.

(3) Acting on the recommendation of the assistant bishop and the parish council (meeting in the absence of the intentional interim vicar), the Archbishop may extend the appointment of an intentional interim vicar by six months up to three times.

(4) An intentional interim vicar functions as the vicar during the period of their appointment and is to be actively involved in leading the parish through a period of change.

(5) An intentional interim vicar may not be instituted as the vicar of a parish at any time in the five years from when they cease to be the intentional interim vicar of that parish.

**Part 6 – Supporting provisions**

**55 Regulations**

(1) The Archbishop in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

(2) Regulations made under this Act may—

(a) be of general or limited application;

(b) differ according to differences in time, place or circumstance;

(c) confer a discretionary authority or impose a duty on a specified person or body or a specified class of person or body.

(3) The power to make regulations includes the power to amend or revoke them.

**Part 7 – Transitional provisions, amendments and repeals**

**Division 1 – Transitional**

**56 Continuation in office of persons holding a licence**

(1) A person who has a clergy authorization for a role, office or position at the time when this Act comes into force continues have a clergy authorization for that role, office or position for the period of the authorization and according to its terms.

(2) Without derogating from the generality of (1)—

(a) a clerk who is an assistant bishop on the commencement of this Act continues to be an assistant bishop under this Act and is entitled to continue as an assistant bishop under this Act until they attain 70 years of age;

(b) a clerk who is an archdeacon on the commencement of this Act continues to be an archdeacon under this Act and holds office for the term provided for in their licence as Archdeacon;

(c) a clerk who is the incumbent of a parish continues to be the vicar of the parish under this Act until the appointment end date determined by reference to their licence;

(d) a clerk who is the priest in charge of a parish and who is not a priest liable to be assessed under section 34 of the **Appointments Act 1971** continues to be the vicar of the parish under this Act, subject to the conditions (if any) in their licence, until the appointment end date determined by reference to their licence;

(e) a clerk who is the priest in charge of a parish and who, under the Appointments Act, was liable to be reviewed after 3 years—

(i) if they have been the priest in charge of the parish for more than 18 months

(A) continues as vicar; and

(B) is to be the subject of an appointment continuation review as soon as is conveniently possible (and in any event not later than before the end of 3 years from the date of their institution); and

(C) if confirmed, holds office with an appointment end date that is 13 years from the date of their institution to the parish;

(ii) if they have been the priest in charge of the parish for 18 months or less--

(A) continues as vicar; and

(B) is to be reviewed subject to an appointment continuation review as provided for in this Act; and

(C) if confirmed, holds office with an appointment end date that is 10 years from the date of their institution to the parish;

(f) a parish minister whose term is not extended through an appointment continuation review under this Act continues to hold office—

(i) until the date specified in the clergy authorization applying to that office; or

(ii) until the expiration of 10 years from the date of their original appointment; or

(iii) until the expiration of 5 years from the date on which their appointment was most recently extended—

whichever is longest.

**57 Initial Diocesan consultants**

(1) A person who immediately before the commencement of this Act is—

(a) a member of the panel of consultants under section 12 of the **Appointments Act 1971**; or

(b) a member of the panel of lay facilitators under section 13 of the **Appointments Act 1971**—

is a Diocesan consultant.

(2) For the purposes of section 28(5), a person who becomes a Diocesan consultant under subsection (1) is to be considered to have been a member of the panel of Diocesan consultants for a continuous period of the lesser of—

 (a) three years; or

(b) the time since their election or appointment as a member of the panel of consultants or a member of the panel of lay facilitators.

**58 Incumbency committees and lay members of incumbency committees**

(1) An incumbency committee that has been convened under the **Appointments Act 1971** continues as an incumbency committee under the **Appointments Act 1971**, constituted as provided for in that Act, until the institution of the next vicar.

(2) The lay members of an incumbency committee, other than an incumbency committee that has already been convened under the **Appointments Act 1971**, hold office as parish nominators until the next election or appointment of parish nominators under the **Parish Governance Act 2013**.

(3) A parish nominations committee convened after the commencement of this Act has the membership provided for in section 27.

**Division 2 – Amendments to other Acts**

**Subdivision 1 – Amendments to Parish Governance Act 2013**

**59 Interpretation**

In this subdivision ***principal Act***means the **Parish Governance Act 2013**.

**60 Parish council to decide on matters of remuneration etc**

 For section 27(1) of the principal Act **substitute**,

"(1) The parish council may determine amounts to be available for the remuneration of the holders of roles, offices or positions in the parish.

(1A) The parish council must—

(a) agree, before it is made, to any recommendation regarding the amount of remuneration, terms and conditions, time fraction, and period of appointment made under—

(i) section 47(2) of the **Clergy Act 2022**; or

(ii) section 28(2); and

(b) decide, before an appointment is made under section 29, the remuneration, terms and conditions, period of appointment, and time fraction of that appointment.

(1B) The parish council must agree, before it is made, to any recommendation regarding the amount of remuneration, terms and conditions, time fraction, and period of appointment in respect of an appointment that may be extended under section 49 of the **Clergy Act 2022** under section 28A.

(1C) A parish council may under this section agree to recommend remuneration or other terms and conditions more advantageous than the remuneration, terms or conditions determined by the Archbishop in Council under section 19 of the **Clergy Act 2022.**

(1D) A decision by a parish council under this section to agree to a recommendation to appoint a parish minister without reference to remuneration or other terms and conditions is to be treated as a recommendation to make an appointment on the remuneration, terms and conditions determined by the Archbishop in Council under section 19 of the **Clergy Act 2022**."

**61 Terms and conditions of other appointments**

In section 29 of the principal Act—

(a) in subsection (1) **omit** "on such terms and conditions as he or she determines";

(b) in subsection (4) **omit** "on such terms and conditions as they determine"; and

(c) after subsection (4) **insert—**

"(4A) The remuneration, terms and conditions, period of appointment, and time fraction of an appointment under this section are those decided by the parish council under section 27(1A)."

**62 Appointment of authorised lay ministers**

For section 28 of the principal Act **substitute:**

"**28 Appointment of authorised lay ministers**

(1) The Archbishop alone may appoint an authorised stipendiary lay minister in a parish and alone may suspend or terminate that appointment.

(2) The vicar is responsible for recommending to the Archbishop the appointment of a person under subsection (1) and the remuneration and other terms and conditions of that appointment.

(3) An appointment under subsection (1) is on the remuneration and other terms and conditions—

(a) recommended by the parish council under section 27; and

(b) determined by the Archbishop that are not inconsistent with the terms and conditions recommended under paragraph (a).

 (4) The Archbishop must consult with the vicar before exercising the power of appointment, suspension or termination unless it is impracticable to do so.

(5) The vicar is responsible for supervising and managing a person appointed under this section.

(6) The vicar must consult with the churchwardens in relation to any course of action, recommendation or decision in relation to a person appointed under subsection (1) that—

(a) may result in their suspension or termination;

(b) if the person was an employee, would constitute or may constitute dismissal or constructive dismissal.

(7) The churchwardens of a parish must indemnify the Diocesan Corporation from the funds of the parish arising from a claim made by a person appointed under this section arising from an action, recommendation or decision referred to in subsection (6).

(8) Nothing in this section derogates from the inherent powers or authority of the Archbishop."

**63 Election and appointment of parish nominators**

In the principal Act **omit** section 21 and after section 25 **insert**:

**"Division 3 – Parish nominators**

**25A Parish nominators**

(1) For a parish with one worship centre, the parish nominators are—

 (a) the female parish nominator;

(b) the male parish nominator; and

(c) the churchwarden appointed as a parish nominator—

holding that office in accordance with this Division at the time when the parish nominations committee or the appointments continuation review committee first meets.

(2) Subject to subsection (3), for a parish with more than one worship centre, the parish nominators are—

(a) the parish nominator elected at the annual meeting of parishioners;

(b) the parish nominator elected by the parishioners on the local electoral roll of the principal worship centre;

(c) the parish nominators elected by the parishioners on the local electoral rolls of each of the local worship centres that are not the principal worship centre; and

(c) the churchwarden appointed as a parish nominator—

holding that office in accordance with this Division at the time when the parish nominations committee or the appointments continuation review committee first meets.

(3) If in a parish with more than one worship centre a statutory parish meeting in each of the worship centres at a meeting of which notice of the proposal has been given decides that there should be the same number of parish nominators as there would be for a parish with one parish centre, the provisions of this Division apply as if the parish had one worship centre.

(4) A parish nominator must be a communicant member of this Church.

**25B Election of parish nominators**

(1) For a parish with one worship centre, an election for the female parish nominator and an election for the male parish nominator are to be conducted at the annual meeting.

(2) For a parish with more than one worship centre—

(a) an election for the parish nominator elected at the annual meeting of parishioners is to be conducted at that meeting; and

(b) an election for the parish nominators elected by the parishioners on each of the electoral rolls of the principal and other worship centres is to be conducted at a statutory parish meeting for the election of the parish nominator under paragraph (a).

(3) The parish nominator elected by the parishioners on the electoral roll of the principal worship centre must be of the opposite sex to the parish nominator elected under subsection (2)(a).

**25C Reserve lists**

(1) A relevant meeting may also elect a reserve list for the position of that parish nominator.

(2) In a parish with more than one worship centre, a person may be on the reserve list both for the parish nominator elected by the annual meeting of the parish and the parish nominator elected by the parishioners of a worship centre other than the principal worship centre.

(3) The relevant meeting may limit the number of positions on any reserve list to which it is entitled to elect members.

(4) Nominations for election to a reserve list may be made before or during a relevant meeting.

(5) Where the relevant meeting has limited the number of positions under subsection (2) and there are more parishioners nominated than that number of positions, there must be an election.

(6) Regardless of whether the number of positions in the reserve list is limited under subsection (2) and regardless of whether an election has been conducted under subsection (4), a person is elected only after the chair of the relevant meeting has put to the meeting separately in the case of each such person the question that that person be elected to that reserve list and the meeting has decided that question in the affirmative.

(7) Within 30 days of being elected to a reserve list, the members of a reserve list must determine amongst themselves the order in which they are to fill a vacancy and inform the vicar of that order.

(8) If the vicar is not informed of an order agreed under subsection (6), the vicar is to determine the order by lot.

**25D Appointment of churchwarden as a parish nominator**

(1) Within 30 days of an annual meeting or before the first meeting of the parish council following an annual meeting (whichever occurs first), the churchwardens must appoint as a parish nominator a churchwarden who is not already a parish nominator.

(2) Subject to subsection (3), if the person appointed under subsection (1) is for any reason no longer available at the time when the parish nominations committee is first convened, the churchwardens must, before the first meeting of the parish nominations committee, appoint as a parish nominator a churchwarden who is not an elected parish nominator.

(3) If at the time of appointing a churchwarden under subsection (2) the only churchwardens available as parish nominators are already elected parish nominators, the churchwardens may appoint one of those parish nominators for the purposes of this section, and there is then a vacancy in the position of elected parish nominator held by that churchwarden,

(4) If, after the parish nominations committee has first met, a churchwarden appointed to it under this section ceases to be a churchwarden, the churchwardens must within 30 days appoint to the parish nominations committee a churchwarden who is not an elected parish nominator. If that person is on reserve list, the person ceases to be on that reserve list at the time of being appointed under this subsection.

**25E Vacancies in positions of elected parish nominators for parish nominations committee**

(1) A vacancy in the office of elected parish nominator arising before the first meeting of the parish nominations committee is to be filled, if possible, from the reserve list for that position by a person.

(2) If a vacancy in the office of elected parish nominator arising before the first meeting of the parish nominations committee cannot be filled from the reserve list for that position a relevant meeting must be convened.

(3) A relevant meeting convened under subsection (2) may—

(a) fill a vacancy by conducting an election under section 25B; and

(b) do anything provided for in section 25D to create a reserve list and elect parishioners to it.

**25F Vacancies in positions of elected parish nominators for appointment continuation review committee**

(1) A vacancy in the office of elected parish nominator arising before the first meeting of the appointment continuation review committee is to be filled, if possible, from the reserve list for that position by a person.

(2) A vacancy in the office of elected parish nominator arising before the first meeting of the appointment continuation review committee that cannot be filled from the reserve list continues until the appointment continuation review committee has concluded its work.

**25G Exemption from certain provisions**

(1) The vicar and churchwardens may jointly apply to the Registrar for an exemption from—

(a) a requirement that a parish nominator elected under section 25A(1)(a) be female;

(b) a requirement that a parish nominator elected under section 25A(1)(b) be male; or

(c) section 25B(3).

(2) An application under subsection (1) must state that there is no parishioner eligible to be elected as a parish nominator who meets the requirement.

(3) The Registrar has an absolute discretion to grant or disallow the application.

**25H Registrar to be informed of outcomes of elections etc**

The parish must inform the Registrar as soon as possible of—

(a) the name, postal address and email address of each person elected or appointed as a parish nominator or the member of a reserve list;

(b) a person referred to in paragraph (a) ceasing to be a parish nominator or the member of a reserve list, or becoming a parish nominator under and

(b) the order determined under section 25C(6) or 25C(7).

**25I Parish nominators continue until institution of next vicar**

After the first meeting of a parish nominations committee, the elected parish nominators continue as members until the institution of the next vicar, and any persons elected or appointed under this Division (other than to fill a vacancy as provided for in this Division) after that first meeting are elected or appointed only for the purposes of being members of a parish nominations committee or appointments continuation review committee convened after the institution of the next vicar or the confirmation or extension of the vicar (as the case requires).

**25J Interpretation**

In this Division, ***relevant meeting*** means the statutory parish meeting or the meeting of parishioners on the electoral roll of a local worship centre that is entitled to elect a parish nominator to a position referred to in section 25A(1)(a) or 25A(1)(b) or section 25A(2)(a), 25A(2)(b) or 25A(2)(c)."

**64 Irretrievable breakdown in pastoral relationships**

Following section 70 of the principal Act **insert**—

"**Division 2A – Irretrievable breakdown in pastoral relationships**

 **70A Interpretation**

(1) In this Part ***board of enquiry*** means the board established by section 70C.

(2) For the purposes of this Part, a person is a ***disqualified person*** if they are—

(a) the Archbishop;

(b) a member of the Council of the Diocese;

(c) a person entitled to be present at a meeting of the Archbishop in Council;

(d) a member of the Appellate Tribunal;

(e) a member of the Diocesan Tribunal or a Board of Reference under the **Diocesan Tribunal Act 2021**;

(f) the Director of Professional Standards, or a member of the Professional Standards Committee, the Professional Standards Board or the Professional Standards Review Board;

(g) a member of the Parish Disputes Mediation Panel established by the **Parish Governance Act 2013**;

(h) a director or executive officer of the Diocesan Corporation;

(i) declared by any competent Court incapable of managing their affairs;

(j) convicted by any Court of any offence punishable by imprisonment;

(k) a clerk who does not hold a clearance for ministry;

(l) a person against whom a charge has been laid under this Act when the charge has not been withdrawn or dismissed, or who is the subject of a complaint under the **Professional Standards Uniform Act 2016 (Diocese of Melbourne)**; or

(m) a person who has been any of the persons referred to in paragraphs (a) to (h) in the preceding two years.

**70B Archbishop may establish enquiry**

(1) Subject to this section, the Archbishop may establish an enquiry into the pastoral relationships in a parish.

(2) The Archbishop may establish an enquiry under this section only on the recommendation of—

(a) the assistant bishop;

(b) not less than two-thirds of the lay members of the parish council; or

(c) the Professional Standards Commission.

(3) The Archbishop may establish an enquiry under this section only if satisfied that—

(a) there is credible evidence of a breakdown in the pastoral relationships in the parish; and

(b) all the available processes, formal or informal, for external advice and support, mediation and dispute resolution have been attempted, have not adequately resolved the situation, and are not likely to resolve the situation if further undertaken.

**70C Report before enquiry established**

(1) Before establishing an enquiry, the Archbishop may appoint to report to the Archbishop on the matters referred to in section 70B(3) a person who is not—

 (a) a disqualified person;

 (b) a person who has had a role in any process referred to in section 70B(3)(b) in relation to that parish;

 (c) a person who has had any role in supervising, mentoring, counselling, guiding or evaluating any clerk in the parish; or

 (d) a member of the board of enquiry.

(2) The person appointed to report for the purposes of subsection (1) has an overriding obligation to discover and consider fairly and dispassionately the key facts, circumstances and views relevant to establishing the matters referred to in section 70B(3).

(3) The person appointed to report for the purposes of subsection (1) must—

 (a) if they are willing to be interviewed, interview; and

 (b) if they are not willing to be interviewed but are willing to offer written comments, seek and consider written comments from—

 each of—

 (c) the vicar;

 (d) other parish ministers;

 (e) any other clergy regularly worshipping the parish;

 (f) the churchwardens; and

 (g) anyone else associated with the parish and identified for this purpose by a person listed in paragraphs (c) to (e).

(4) The report must set out everything that has already been done to resolve the situation, the views of those interviewed or providing written comments under subsection (3) regarding the respects in which what has been done has succeeded and the respects in which what has been done has failed and why, and what else (if anything) should be attempted and how it might succeed.

(5) The report to the Archbishop is confidential to the Archbishop, but may be provided by the Archbishop to the board of enquiry.

(6) At the time of providing the report to the Archbishop the person reporting must provide to the Registrar all documents discovered, used or produced under this section, and the Registrar must retain permanently and securely all those documents.

(7) A document retained by the Registrar under subsection (6) must not be made available to anyone for a period of 30 years from the date when it was provided to the Registrar unless it is necessary to do so under the laws of the Commonwealth or a State or Territory, or for the purposes of any Canon of this Church or Act of this Synod.

**70D Constitution of board of enquiry**

(1) There is established a board of enquiry.

(2) The board of enquiry comprises—

 (a) a chair appointed by the Archbishop in Council at its second meeting following the first ordinary session of each Synod; and

 (b) one clerk and one lay person elected by the Synod at the first ordinary session of each Synod.

(3) The members of the board of enquiry when it has commenced an enquiry under this Part remain in office for the purposes of completing that enquiry until that enquiry is completed.

(4) A person who is at any time a disqualified person ceases to be a member of the board of enquiry.

(5) A casual vacancy in a position referred to in subsection (2)(b) may be filled until the next ordinary session of Synod by the Archbishop in Council and must be filled at that session by the Synod.

## **70E Procedure of board of enquiry**

 (1) A quorum of the board of enquiry is 2 members.

 (2) Subject to this Part, the procedure of the board is in its discretion.

## **70F Enquiry by Board of Reference**

(1) When the Archbishop has established an enquiry under section 70B, the board of enquiry must determine whether there is a breakdown in pastoral relationships in the parish and, if it finds that there is such a breakdown, whether it is an irretrievable breakdown.

(2) The vicar, churchwardens, parish secretary, other parish ministers in the parish holding a clergy authorization, and any authorised stipendiary lay minister must make available to the board, insofar as it is available to them, the minutes of statutory parish meetings, minutes of meetings of the parish council and any vestry in the parish, and all correspondence sent and received by any of them by virtue of their role, office or position in the parish.

(3) The board of enquiry must seek evidence from the vicar, churchwardens, members of the parish council, members of any vestry, parish ministers holding a clergy authorization, any authorised stipendiary lay minister and any other parishioner or person who habitually worships in the parish regarding the subject matter of its enquiry.

(4) Where the board of enquiry considers that it may make a finding that any person has contributed to a breakdown in pastoral relationships in the parish, it must before making that finding inform that person of the possible finding and provide to that person the opportunity to respond to it.

(5) A person responding under subsection (4) in person to a possible finding is entitled to be accompanied by a person of their choice.

## **70G Referral to Professional Standards Commission**

## Where an enquiry has been established on a recommendation made under section 70B(2)(a) or 70B(2)(b), the board of enquiry may at any time determine that it should not proceed further and that matters be referred to the Professional Standards Commission to be dealt with under the **Professional Standards Uniform Act 2016 (Diocese of Melbourne).**

## **70H Determination by board of enquiry**

 (1) The board of enquiry must report to the Archbishop.

 (2) The report must state whether in the board's opinion a breakdown has occurred in pastoral relationships in the parish that is irretrievable.

 (3) Where the report states that in the board's opinion a breakdown has occurred in pastoral relationships in the parish that is irretrievable, the report must further state whether significant responsibility for that breakdown lies with—

 (a) the vicar;

 (b) some other clerk in the parish holding a clergy authorization;

 (c) some other clerk in the parish other than a clerk referred to in paragraphs (a) or (b);

 (d) an authorised stipendiary lay minister licensed to the parish;

 (e) a parish officer;

 (f) a person holding a role, office or position in the parish; or

 (g) some other parishioner.

(4) Where the board of enquiry states that significant responsibility for that breakdown lies with a person referred to in subsection (3), it must further report on what action referred to in section 70I should be taken in relation to that person.

(5) A report by the board of enquiry that the Archbishop should take an action referred to in section 70I(1)(a) or that the Archbishop in Council should take an action referred to in subsections (3)(b), 3(c) or 4(b) must be supported by all the members of the board of enquiry.

(6) If the board advises that in its opinion there is not an irretrievable breakdown in pastoral relationships in a parish, the Archbishop must initiate a course of action to restore pastoral relationships in the parish.

## **70I Action following report of irretrievable breakdown**

 (1) Where the report of a board of enquiry states that significant responsibility for an irretrievable breakdown in pastoral relationships lies with the vicar, another clerk in the parish holding a clergy authorization, or an authorised stipendiary lay minister the Archbishop may, subject to this section—

 (a) revoke the licence or other clergy authorization or lay authorization of that clerk or minister;

 (b) rebuke the clerk or minister;

 (c) admonish the clerk of minister;

 (d) direct the clerk or minister to function under the direction of the assistant bishop, archdeacon or other clerk appointed by the Archbishop; or

 (e) direct the clerk or minister to perform the duties and responsibilities of the office in a manner specified by the Archbishop.

 (2) Where the report of the board of enquiry states that significant responsibility for an irretrievable breakdown in pastoral relationships lies with a clerk in the parish who does not hold a clergy authorization, the Archbishop may—

 (a) rebuke the clerk or minister;

 (b) admonish the clerk of minister;

 (c) direct the clerk to enter into a written agreement with the vicar and the assistant bishop regarding their future participation in the life of the parish.

 (3) Where the report of a board of enquiry states that significant responsibility for an irretrievable breakdown in pastoral relationships lies with a parish officer or a person holding a role, office or position in the parish, the Archbishop in Council may—

 (a) admonish the person;

 (b) rebuke the person;

 (c) remove the person from one or more offices that they hold in the parish;

 (d) determine that the person is not to hold any office or one or more particular offices within the parish for a period that it determines, not exceeding five years;

 (e) determine that the person may hold any office or one or more particular offices within the parish only after entering into a written undertaking in the terms decided by the Archbishop in Council; or

 (f) determine that for a stated period of time the person is a parishioner of concern.

**Note:**

Section 70K provides for actions that may be taken in relation to a parishioner of concern.

(4) Where the report of the board of enquiry states that significant responsibility for an irretrievable breakdown in pastoral relationships lies with a parishioner who is not a parish officer or a person holding a role, office or position in the parish, the Archbishop in Council may—

 (a) admonish the person;

 (b) rebuke the person;

 (c) determine that the person is not to hold any office or one or more particular offices within the parish for a period that it determines, not exceeding five years;

 (d) determine that the person may hold any office or one or more particular offices within the parish only after entering into a written undertaking in the terms decided by the Archbishop in Council; or

 (e) determine that for a stated period of time the person is a parishioner of concern.

**Note:**

Section 70K provides for actions that may be taken in relation to a parishioner of concern.

 (5) The Archbishop may take an action referred to in subsection (1)(a) only if that action was recommended in the report of the board of enquiry.

 (6) The Archbishop in Council may take an action referred to in subsections (3)(b), 3(c) or 4(b) only if that action was recommended in the report of the board of enquiry.

 (7) A determination made by the Archbishop or the Archbishop in Council under this section must be announced to the parishioners by the assistant bishop or the relevant archdeacon.

## **70J Actions where clergy authorization revoked**

(1) If the Archbishop revokes the clergy authorization of a clerk, or the licence of an authorised stipendiary lay minister, the Archbishop may appoint a suitable person to negotiate with that person, or with a representative of that person, the provision to that person of financial, family, personal or other assistance.

(2) The cost of assistance to a person under subsection (1)–

(a) must not exceed the sum of the stipend and allowances paid to the person in respect of their role, office or position in the parish during the 12 months preceding that revocation; and

(b) subject to subsection (3), must be met as to one half by the parish and as to one half from funds made available for the purpose by the Archbishop in Council.

(3) Despite subsection (2)(b), the Archbishop in Council may determine that it will meet the whole cost of the assistance provided under subsection (1).

 (4) The Archbishop in Council may determine that assistance with housing should be given to a person, in addition to the assistance given under subsection (1).

(5) The cost of assistance with housing under subsection (4) shall be met from funds made available for the purpose by the Archbishop in Council.

## **70K Actions in relation to a parishioner of concern**

(1) Subject to this section, while a person is a parishioner of concern, they are under the direction of the relevant archdeacon regarding anything they do within the parish.

(2) The archdeacon may consult with the vicar or churchwardens regarding the parishioner of concern and the directions that are to be given.

(3) The archdeacon may not give a direction to a parishioner of concern regarding a matter referred to in section 70I(3)(c), (d) or (e) or section 70I(4)(c) or (d).

**70L Powers under this Division to prevail**

A right or power conferred by sections 70I or 70K, and a decision or action taken in the exercise of a right or power conferred by sections 70I or 70K, has effect even if it is contrary to or inconsistent with a right, privilege or entitlement conferred by another provision of this Act or another Act of this Synod."

**Subdivision 2 – Amendments to the Interpretation of Diocesan Legislation Act 2016**

**65 Interpretation**

In this subdivision, ***principal*** ***Act*** means the **Interpretation of Diocesan Legislation Act 2016.**

**66 Expressions relating to bishops and other clergy**

(1) In section 27 of the principal Act **insert**—

(a) "***curate*** means a clerk who is in the first four years from their ordination and under the direction and supervision of a vicar or other senior clerk"; and

(b) "***parish minister*** means a clerk other than a vicar or a curate who holds a role, office or position in ministry in a parish;".

(2) After section 27 of the **Interpretation of Diocesan Legislation Act** **2016 insert**:

"(2) A reference in an Act to a ***Coadjutor Bishop,*** a ***regional bishop***or an ***assistant bishop***, unless the Act otherwise provides, is a reference to a bishop or priest appointed or assigned by the Archbishop to exercise a power or perform a function of a coadjutor bishop, regional bishop or assistant bishop under that Act and, in the absence of such an appointment, is a reference to the Archbishop."

**67 New and substituted definitions**

Schedule 1 applies.

**Subdivision 3 – Amendments to Synod Act 1972**

**68 Interpretation**

In this subdivision ***principal Act*** means the **Synod Act 1972**.

**69 Consequential amendments**

 In the principal Act in—

 (a) the heading to section 4;

(b) section 5AA(1); and

(c) section 32A—

for "incumbent" **substitute** "vicar".

**70 Assistant bishops to be clerical members of Synod**

After section 3 of the principal Act **insert**—

**"3A Assistant bishops to be clerical members of Synod**

A clerk who holds office as an assistant bishop under Part 2 of the **Clergy Act 2022** is a clerical member of the Synod and may vote as a member of the house of clergy except when they are President or acting as the President."

**Subdivision 4 – Amendments to Melbourne Archbishopric Act 1980**

**71 Interpretation**

In this subdivision ***principal Act*** means the **Melbourne Archbishopric Act 1980**.

**72 Definition of "Assistant Bishop" in the principal Act**

 After section 1 of the principal Act **insert**—

 "*Interpretation*

1A. In this Act ***Assistant Bishop*** means a bishop holding office as an assistant bishop under Part 2 of the **Clergy Act 2022**.**"**

**Subdivision 5 – Consequential and technical amendments**

**73** **Consequential amendments**

Schedule 2 applies.

**Division 3 – Repeal of legislation**

**74 Acts repealed**

The following Acts are repealed—

(a) the **Assistant Bishops Act 1985**;

(b) the **Archdeacons (Qualification) Act 1994**;

(c) the **Appointments Act 1971**;

(d) the **Diocesan Stipends Act 1991**; and

(e) the **Superannuation of Clergy Act 2005**.

**Schedule 1**

In section 27 of the **Interpretation of Diocesan Legislation Act 2016** the definitions in column 1 are amended as set out in column 2:

|  |  |
| --- | --- |
| **Column 1** | **Column 2** |
| Assistant bishop | **omit** the definition |
| Coadjutor bishop | **omit** the definition |
| Council of the Diocese | for the definition **substitute** "means the members of the Archbishop in Council other than the Archbishop". |
| incumbent | **omit** the definition |
| principal door of the church | for "incumbent thereof" **substitute** "vicar" |
| Regional bishop | **omit** the definition |
| vicarage | for "incumbent thereof" **substitute** "vicar" |

**Schedule 2**

In the following Acts for "Regional Bishop" **substitute** "assistant bishop"—

(a) **Parish Governance Act 2013** – sections 3(1) 21(1)(a), 21(7), 27(4), 40(3), 55 wherever occurring, 58 wherever occurring, 61(3), 62(1)(b), 72(1)(b), and 83(2)(c)(iii);

(b) **Shared Use of Church Property Act 2002**, section 4(2)

In section 3(1) of the **Parish Governance Act 2013** **insert**:

"***appointment continuation review committee*** has the same meaning as it has in the **Clergy Act 2022**;".