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Act No. 1 of 2022¹

Serial no. 267

Reprinted with amendments as at 1 March 2024²

Clergy Act 2022

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**, to amend the **Interpretation of Diocesan Legislation Act 2016**, the **Parish Governance Act 2013**, and the **Synod Act 1972**, and to repeal the **Superannuation of Clergy Act 2005** and the **Diocesan Stipends Act 1991**

Preamble

- A. The theology of the ordained ministry is set out in the ordinals of the three authorised Prayer Books of the Anglican Church of Australia: the Book of Common Prayer, An Australian Prayer Book and A Prayer Book for Australia.
- B. Further detail of the theology of ordained ministry in the Anglican Church of Australia is in several Canons of General Synod, principally the Canon Concerning Holy Orders 2004, the Holy Orders (Reception into Ministry) Canon 2004, and the Oaths Affirmations Declarations and Assents Canon 1992. All of these canons have been adopted by the Melbourne Synod.

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

- (1) This section and section 66 come into operation on the date on which the Archbishop assents to this Act.
- (2) Each other provision of this Act comes into operation on the earlier of—
 - (a) the date determined in respect of that provision by the Archbishop in Council; or
 - (b) 1 March 2023.

2 Definitions

- (1) In this Act—

acting vicar means a clerk appointed under section 45;

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

appointment continuation review committee means the committee constituted under section 34;

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 15;

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 24, and in the

case of any particular parish nominations committee means that Diocesan consultant assigned to that committee under section 26.

intentional interim vicar means a priest appointed as an intentional interim vicar under section 46;

licensed means holding the licence of the Archbishop;

nominal time fraction means the number of days by reference to which the stipend of a clerk not working full time is paid, relative to the number of days attributed to a clerk who is working full time, expressed as a fraction;

Note:

It is possible that the determination of the Archbishop in Council under section 17 may indicate the number of days attributed to a clerk who is working full time.

Example:

If a clerk remunerated at full time is considered to work six days a week, the nominal time fraction for a clerk appointed at four days a work is two-thirds.

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

vicar, other than in Division 1 of Part 5, has the same meaning as in the **Parish Governance Act 2013**.

- (2) A reference in this Act to an appointment being *confirmed* is a reference to the term of an appointment

that is subject to an initial post-appointment review being extended for the remainder of the term of the appointment.

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

Note:

The effect of section 8F(3) of the **Parish Governance Act 2013** is that a priest licensed to perform the functions of a vicar in relation to an Authorised Anglican Congregation is termed the "priest in charge" of that 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 clerk in Holy Orders to whom Division 2 of Part 4 applies is the holder of a spiritual office and is not an employee.

Note:

Because a clerk 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) An appointment to the office of assistant bishop may not occur without the concurrence of the Council of the Diocese.

6 Confirmation as to canonical fitness

- (1) Before a priest appointed as an assistant bishop can be consecrated, their canonical fitness must be confirmed by a majority of the diocesan bishops of the Province of Victoria, including the Metropolitan, through a written vote.
- (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 Archbishop to determine title

An assistant bishop while in office bears the title determined by the Archbishop

8 Assistant bishops once aged 70

- (1) Subject to this section, a person ceases to remain an assistant bishop on attaining 70 years of age.
- (2) The Archbishop with the concurrence of the Council of the Diocese may—

- (a) appoint an assistant bishop aged 70 or more years for a specified term; or
- (b) continue for a specified term the appointment of an assistant bishop who has attained, or who is about to attain, 70 years of age.

Part 3 – Archdeacons and holders of other offices

9 Qualification to be an archdeacon

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

10 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.

11 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

12 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.
- (3) A condition or other requirement in a clergy authorization must not be inconsistent with the law of the Church in the diocese.

13 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 17 at 0.5 or more of the remuneration established by that determination; or
 - (d) a curate—must be licensed.

- (3) A clerk who is a parish minister remunerated under a determination under section 17 at less than 0.5 of the remuneration established by that determination 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.

14 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.

15 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

16 Application of this Division

The remuneration, benefits, allowances, provisions and working conditions determined under this Division apply to clerks 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 that is not the Diocesan Corporation; and
- (b) other than the Dean and other Cathedral clergy.

17 Remuneration and working conditions of clergy

- (1) The Archbishop in Council must determine the remuneration, benefits, allowances and

working conditions for the purposes of this Division.

- (2) A determination must provide for the remuneration, benefits, allowances 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 11.
- (3) A determination must provide for how the costs of requirements stipulated under section 15 are to be met.
- (4) The Archbishop in Council may prescribe arrangements for additional payments or alternative compensation in respect of archdeacons, area deans, canons to the ordinary and others holding offices established under section 11.
- (5) A determination may provide differently for different classes of persons, and for different persons within a class of persons.
- (6) A determination may be varied at any time, and must be reviewed at least annually.
- (7) A determination must be in writing and made publicly available on the Diocesan website.
- (8) Subject to this Act, a clerk is entitled to receive the remuneration, benefits and allowances, and to hold office in accordance

with the terms and working conditions, determined under this section as they apply to that clerk.

- (9) This section does not prevent a clerk from receiving remuneration, benefits or allowances or having other terms and working conditions that are more advantageous than the remuneration, benefits, allowances, terms or working conditions determined by the Archbishop in Council under this section.

18 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

recognized 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.

Division 3 — Removal on the grounds of incapacity

19 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.

20 Actions following recommendation

- (1) Following a recommendation under section 19, 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, for which they hold a clergy authorization.

- (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.

21 Medical report

If the Archbishop commences a process under section 20, the Diocesan Corporation must obtain, at its expense, a medical report by a medical practitioner appointed by the Diocesan Corporation

22 Action following medical report

If the medical practitioner appointed under section 21 reports 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

23 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.

24 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 and have a good knowledge of the church in the Diocese and experience in selecting people for appointment.
- (5) Subject to subsection (6), a person cannot be a member of the panel of Diocesan consultants for a continuous period of more than six years.
- (6) A Diocesan consultant who has been assigned to a parish nominations committee under section 26(3) and whose term as a Diocesan consultant expires under subsection (5) may continue to contribute to the work of that committee until it makes recommendation under section 29, but if that parish nominations committee resumes meeting under section 31 the Registrar must assign another Diocesan consultant.

25 Time when parish nominations committee to be convened

- (1) For the purposes of section 26, 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) a date more than six months before the date on which the current vicar is expected to take their last service in the parish if so determined by the Archbishop; or

- (c) immediately 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.

Note:

Section 40 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) a wish to have the appointment confirmed or extended or have not had their term confirmed or extended; or
 - (c) the commencement date in the parish of an intentional interim vicar or an acting vicar.

26 Convening the parish nominations committee

- (1) The assistant bishop must within two months of the time from which it is possible to convene a parish nominations committee, instruct the Registrar to convene it unless in the meantime—
 - (a) the assistant bishop and parish council have recommended under section 46(1) that an intentional interim vicar be 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) the assistant bishop and parish council have recommended under section 46(1) that an intentional interim vicar be appointed and the Archbishop has not appointed an intentional interim vicar within one month of that recommendation, the assistant bishop must within a further one month instruct the Registrar to convene the parish nominations committee.
- (3) 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.
- (4) 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; and
 - (b) arrange for the first meeting of the parish nominations committee to be held within one month of the instruction.

27 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 35(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)**.

28 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 archdeacon, the Diocesan consultant, or a parish nominator and any priest whose name is submitted by the Archbishop.
- (3) The parish nominations committee may consider for appointment as vicar of a parish a priest who is or has been a parish minister in that parish.
- (4) The Archbishop in Council must prescribe systems, processes and reporting arrangements to be followed to increase the proportion of clergy from diverse backgrounds (including female clergy) who are appointed as vicars.

Note:

The systems, processes and reporting arrangements that may be prescribed include (but are not restricted to) setting quotas and targets or establishing means to set quotas and targets, and reporting to the Synod and reporting publicly in other ways against those quotas or targets.

- (5) A parish nominations committee must adhere to the systems, processes and reporting prescribed under subsection (4) that apply to it.

29 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) The assistant bishop must report to the Archbishop—
 - (a) the recommendation of the parish nominations committee;
 - (b) the number of male and female priests who were interviewed; and
 - (c) whether the clerk, or the clerks, recommended for appointment should be subject to an initial post-appointment review.
- (3) When the appointment is less than full time, the report must also include the details of the proposed part-time arrangement.

30 Actions following receipt of report

- (1) Subject to this section, on receipt of a report under section 29 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.

31 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.

32 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 — Duration of time in office

33 Periods of appointment and extension

- (1) Subject to this section and section 44, a vicar is appointed for 10 years from the date of their institution.
- (2) A vicar appointed during any time when—
 - (a) the parish is designated a supported parish under section 61 of the **Parish Governance Act 2013**;
 - (b) a diocesan manager is appointed under section 63 of the **Parish Governance Act 2013**; or
 - (c) the parish is a parish under consideration pursuant to section 72 of the **Parish Governance Act 2013**—

is appointed for the period (not exceeding 10 years) decided by the Archbishop as stated in the clergy authorization relating to that appointment.

- (3) A vicar is appointed with a review period of 36 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.
- (4) The Archbishop may—
 - (a) in a particular case, determine that there is to be no review period; or
 - (b) reduce the review period either at the time when the priest is instituted to the parish or at any time before a review commences under this Act.
- (5) A vicar may have their term of appointment extended for a period of five years one or more times.

34 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 33(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.

35 Convening the appointment continuation review committee

- (1) At a time between six and twelve 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 by the response 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 by the response 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.
- (7) In this section *response date* means—
 - (a) the date five months before the appointment end date; or
 - (b) the date decided by the assistant bishop and communicated in writing to the Registrar and the members of the appointment continuation review committee, being a date that will enable the appointment continuation review committee to complete its work before the appointment end date.

36 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).

37 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—
- (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 (Diocese of 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) 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 appointment of the clerk should be confirmed or extended—
- (a) is to proceed forthwith; or
 - (b) should commence (if it is possible to complete it before the appointment end date) at a time after the charge or allegation of misconduct has been finally disposed of.

Subdivision 3 —Matters relating to vicar’s appointment

38 Documents to be lodged with the Registrar

At the time when a priest is instituted as vicar of a parish the assistant bishop must lodge with the Registrar—

- (a) the clergy authorization;
- (b) a document in the form prescribed by the Archbishop in Council and signed by the vicar and the churchwardens setting out—
 - (i) whether the appointment is full time or part time and, if part time, the nominal time fraction for that appointment;
 - (ii) the details of the vicar’s remuneration; and
 - (iii) any respects in which the remuneration, allowances, benefits and working conditions applying to the vicar are to

differ from the determination of the Archbishop in Council under section 17.

39 Varying the nominal time fraction of a vicar

- (1) This section applies when the churchwardens in a parish wish to vary the nominal time fraction in relation to the vicar of that parish.
- (2) When this section applies, the churchwardens must first inform the assistant bishop, the archdeacon and the Diocesan Corporation.
- (3) The assistant bishop must convene a meeting at which are present the assistant bishop or the archdeacon (as chair), the churchwardens and the vicar.
- (4) The vicar may also be accompanied by a person of their choice.
- (5) Any agreement varying the nominal time fraction must detail the corresponding variations in the work that the vicar will undertake.
- (6) If at a meeting convened under this section the chair, the vicar and a majority of the churchwardens agree to vary the nominal time fraction, an agreement must be signed by the vicar, the churchwardens and the chair of the meeting, lodged with the Registrar and provided to the Diocesan Corporation.
- (7) The nominal time fraction of a vicar can be varied only as provided for in this section.

- (8) The Diocesan Corporation must not vary the remuneration paid to a vicar as a result of a variation in the nominal time fraction except pursuant to an agreement provided to it under subsection (6).

40 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 the appointment has not been confirmed (in the case of a vicar subject to an initial post-appointment review) or extended (in the case of a vicar not subject an initial post-appointment review);
 - (c) their resignation has effect;
 - (d) they cease to hold a clearance for ministry or a clergy authorization;
 - (e) they are removed in accordance with 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

41 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 working conditions of that appointment.
- (3) Subject to this section, an appointment under subsection (1) is on the remuneration and other terms and working 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 working conditions recommended under paragraph (a).
- (4) A parish minister may be appointed to a role, office or position that is not remunerated and a clerk may be appointed as a curate without remuneration.

- (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 or curate.
- (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 pay to the Diocesan Corporation from the funds of the parish any amount paid by the Diocesan Corporation in respect of a claim made by a parish minister arising from an action, recommendation or decision referred to in subsection (7).
- (9) This section does not derogate from the inherent powers or authority of the Archbishop.

42 Regulations relating to parish ministers

The Archbishop in Council may make regulations regarding—

- (a) the term of appointment of parish ministers;

- (b) when a parish minister is subject to an initial post-appointment review and the length of that period;
- (c) the process for confirming or extending a parish minister's appointment;
- (d) varying the nominal time fraction of a parish minister; and
- (e) in what circumstances a process for confirming or extending a parish minister's appointment may or may not proceed when the parish minister is subject to a charge under the **Diocesan Tribunal Act 2021** or an allegation of misconduct under the **Professional Standards Uniform Act 2016 (Diocese of Melbourne)**.

43 Ceasing to be a parish minister

A clerk ceases to be a parish minister when—

- (a) the term of their appointment expires and the appointment has not been confirmed (in the case of a parish minister subject to an initial post-appointment review) or extended (in the case of a parish minister not subject to an initial post-appointment review);
- (b) their resignation has effect;
- (c) they cease to hold a clearance for ministry or a clergy authorization;
- (d) they are removed in accordance with 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—Review of ministry arrangements for certain parishes

44 Review of ministry arrangements

- (1) This section applies during any time when—
 - (a) the parish is designated a supported parish under section 61 of the **Parish Governance Act 2013**;
 - (b) a diocesan manager is appointed under section 63 of the **Parish Governance Act 2013**; or
 - (c) the parish is a parish under consideration pursuant to section 72 of the **Parish Governance Act 2013**.
- (2) When this section applies, the Archbishop in Council may appoint a person to report to it on ministry in the parish.
- (3) Having considered a report provided under subsection (2) the Archbishop in Council may recommend to the Archbishop that—
 - (a) the nominal time fraction of a vicar or a parish minister in the parish be varied; or
 - (b) the appointment of a vicar or a parish minister in the parish be terminated; or
 - (c) some or all of the provisions of Divisions 1 and 2 of this Part are not to apply in the case of that parish either for

a specified period of time or indefinitely—

and the Archbishop may give effect to that recommendation.

- (4) A vicar or parish minister whose appointment is varied or terminated under this section is entitled to compensation determined in accordance with the determination of Archbishop in Council under section 17 or (if it is no less advantageous to the vicar or parish minister) determined by the Archbishop in Council.
- (5) The compensation determined under section 17 may not be less than the sum of the stipend and allowances paid to the member of the clergy during the preceding three months of appointment.
- (6) An amount paid under subsection (4) in addition to an amount of compensation determined under section 17 may take into account whether the member of the clergy has been offered appointment to some other role, office or position in the Diocese and the remuneration for that role, office or position.
- (7) The compensation payable under subsection (4) is to be met by the Diocese.

Division 4—Acting and intentional interim vicars

45 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 working 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 working conditions agreed under subsection (2) must not be inconsistent with the terms of any applicable determination of the Archbishop in Council under section 17.

46 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.

Part 6 – Supporting provisions

47 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.

Part 7 repealed 1 March 2024 – see Act No. 1 of 2022 s 62

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Part 8 repealed 1 March 2024 – see Act No. 1 of 2022 s 69

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Schedules 1 and 2 repealed 1 March 2024 – see Act No. 1 of 2022 s 62

Clergy Act 2022

Note:

- 1 The Act was passed by the Synod on 15 October 2022 and received the assent of the Archbishop on 18 October 2022. It commenced on 1 March 2023.
- 2 This reprint incorporates the amendment made to the **Clergy Act 2022** by the following legislation:

Name	No.	Date of Decision or Assent	Date of Commencement
Clergy (Transitional Provisions) Regulations 2023		16 March 2023	16 March 2023

ANGLICAN DIOCESE OF MELBOURNE

Clergy Act 2022

CLERGY REGULATIONS 2023¹

Part 1 – Preliminary

1.1 Title

These regulations may be cited as the Clergy Regulations 2023.

1.2 Authorizing provisions

These regulations are made under section 47 of the **Clergy Act 2022**.

1.3 Commencement

These regulations come into effect on the day on which the **Clergy Act 2022** commences.

1.4 Interpretation

In these regulations *the Act* means the **Clergy Act 2022**.

Part 2 – Confidentiality statement

2.1 Form of confidentiality statement

The form of confidentiality statement for the purposes of section 27 of the Act is in Schedule 1.

Part 3 - Increasing proportion of clergy from diverse backgrounds

3.1 Means of achieving diversity in vicars

The systems, processes and reporting arrangements for the purposes of section 28(4) of the Act are that the assistant bishop chairing the parish nominations committee must explicitly raise the question of gender and ethnic diversity with parish nominators.

¹ The Clergy Regulations 2023 were made on 23 February 2023.

Part 4 – Form lodged on institution of vicar

4.1 Form when vicar instituted

A form is in the prescribed form for the purposes of section 38 if it is a form approved for use by the Diocesan Corporation that contains all the information required by section 38(b) of the Act in a manner that enables all that information to be derived from the form at a later date without reference to extrinsic documents.

Part 5 – Appointment continuation review committee

5.1 Conduct of review by appointment continuation review committee

In determining whether an appointment of a vicar is to be confirmed or extended, an appointment continuation review committee 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 it regarding their work to date in the parish and how that should be viewed in relation to their continuing as vicar; and
- (d) have regard to any appraisal of the vicar.

Part 6 – Parish ministers

6.1 Periods of appointment and extension

- (1) Subject to this regulation, a parish minister is appointed for a term not exceeding five years from the date of their appointment.
- (2) A parish minister appointed for a period of more than two 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.

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- (4) Subject to regulation 6.2, a parish minister may have their term of appointment extended for a period not exceeding five years one or more times.

6.2 Review for confirmation or extension of appointment

- (1) At least six months before the appointment end date of a parish minister, 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—
- (a) the vicar does not make a recommendation under subregulation (1); or
 - (b) the parish council determines 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 determines 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 subregulation (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 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

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- (b) whether the term of the parish minister's appointment should be extended under regulation 6.1(4).

6.3 Conduct of review

In determining whether an appointment of a parish minister is to be confirmed or extended, a vicar 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
- (d) have regard to any appraisal of the parish minister.

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

- (1) This regulation applies when four 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 regulation 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 these regulations 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) When this regulation 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 (if it is possible to complete it before the appointment end date) after the charge or allegation of misconduct has been finally disposed of.

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SCHEDULE

CONFIDENTIALITY STATEMENTS

A. Form of Statement for Diocesan consultant

Anglican Diocese of Melbourne

I [*insert full name*] have been appointed a Diocesan consultant under the **Clergy Act 2022** of the Diocese of Melbourne.

I acknowledge that from time to time I may come into possession of information that is confidential or sensitive, including information relating to clergy being considered for appointment, clergy already holding an authorization in the Diocese, and parishes and their officers whose work I facilitate.

I undertake not to share any such information with anyone who is not another facilitator, the Archbishop or assistant bishop, or an archdeacon or parish nominator in relation to a particular parish, and further:

- (a) to keep secret and secure information received from the Archbishop or an assistant bishop as confidential, or reasonably likely to be confidential;
- (b) to keep secret and secure from any archdeacon or parish nominator information communicated by other facilitators as confidential, or reasonably likely to be confidential;
- (c) to keep secret and secure any information gained through the work of a particular parish nominations committee that is reasonably likely to be confidential or with the potential to cause embarrassment; and
- (d) to send and receive emails relating to the work of the committee using an email address that is not used by anyone else.

I also acknowledge that these commitments and obligations that relate to the secrecy and security of information continue for a period of 20 years from the date on which I cease to be a Diocesan consultant.

Signed:

Dated:

Witness

B. Form of Statement for Parish Nominators

Anglican Diocese of Melbourne

I [*insert full name*] am a parish nominator for the parish of [*insert name of parish*].

In order to protect the confidentiality of the work of the parish nominations committee and of those who may be considered for appointment, I will—

- (a) keep secret and secure the work of the committee and any documents associated with that work;
- (b) send and receive emails relating to the work of the committee using an email address that is not used by anyone else (other than another parish nominator);

and that I will not—

- (c) provide to anyone (whether within or beyond the parish) any information that could identify who is or has been, or who has not been, considered for appointment to the parish;
- (d) provide to anyone information about what another member of the committee has said or not said;
- (e) seek or obtain the opinion of anyone regarding a person's suitability for appointment as the vicar without that person's prior permission.

I acknowledge that as a parish nominator I am a member of a committee that has a duty to undertake careful and full enquiries in relation to anyone being considered for appointment, and that parish nominators can expect the assistance of the assistant bishop and Diocesan consultant in enabling us to discharge our duties consistent with our obligation of confidentiality..

I also acknowledge that these commitments and obligations that relate to the secrecy and security of information continue for a period of 20 years from the date of this statement.

Signed:

Dated:

Witness