

SCHEDULES

SCHEDULE 4

Section 40

COMPENSATION OF CLERGY

- 1 The incumbent of a benefice dissolved by a pastoral scheme or deemed to be vacated by virtue of section 39, the archdeacon of an archdeaconry dissolved by a pastoral scheme and the holder of any other ecclesiastical office who is subject to Common Tenure whose office is abolished by or as the result of a pastoral scheme or order, shall be entitled to compensation for any loss suffered by him or her in consequence of the dissolution or vacation of the benefice or archdeaconry or the abolition of the office, as the case may be.
- 2 If the incumbent of any benefice or the archdeacon of any archdeaconry or the holder of any other ecclesiastical office who is subject to Common Tenure agrees with the mission and pastoral committee that, if he or she resigns his or her benefice, archdeaconry or office in order to enable a pastoral scheme or order to come into operation or to facilitate its coming into operation, compensation will be payable for any loss suffered by him or her in consequence of his or her resignation, he or she shall be entitled, on resignation after the making of the scheme or order to compensation for any such loss.
- 3 Without prejudice to the generality of the foregoing provisions, the loss suffered by any such incumbent or archdeacon or office holder shall include loss arising from his or her ceasing to occupy the parsonage house or other official residence of the incumbent, archdeacon or officer holder and any expenses arising from his change of residence.
- 4 The right to and the amount of compensation payable under this Schedule shall be determined in the first instance by the mission and pastoral committee, but the person claiming the compensation (hereinafter called the claimant”) shall have a right of appeal to the Appeal Tribunal constituted under this Schedule for the relevant province.
- 5
 - (1) The compensation shall consist of periodical payments or a lump sum payment, or partly of one and partly of the other, and compensation in the form of periodical payments shall not be assignable.
 - (2) The mission and pastoral committee may, pending the final determination of a claim for compensation, make payments on account to the claimant.
- 6 In determining whether any claimant has suffered loss giving a right to compensation and, if so, the amount thereof, the mission and pastoral committee and the Appeal Tribunal—
 - (a) shall take into account the emoluments of any ecclesiastical office (including another benefice) to which the claimant has been or is to be appointed, or of any other regular remunerated employment in which he or she is or is to be engaged; and
 - (b) if he or she refuses without good and sufficient reason to accept an ecclesiastical office which in the opinion of the committee or Tribunal is

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reasonably comparable to the benefice or office in respect of which the compensation is claimed, may take into account the emoluments of the office so refused.

7 If any person who is receiving compensation under this Schedule in the form of periodical payments is appointed to any ecclesiastical office or becomes engaged in any remunerated employment, or refuses any such office as is mentioned in subparagraph (b) of paragraph 6, the mission and pastoral committee may suspend the periodical payments or reduce the amount of the payments, having regard to the emoluments of the office, but the person affected shall have a right of appeal to the Appeal Tribunal.

8 Any person who has been refused compensation under this Schedule or is receiving or has received compensation may apply to the mission and pastoral committee for a grant or renewal of the compensation or, as the case may be, an increase of the compensation (whether by way of an increase of periodical payments or a lump sum payment or both), on the ground that circumstances of which account was taken under paragraph 6 or 7 have materially altered to his or her disadvantage, and the mission and pastoral committee may grant or renew the compensation or make an increase on that ground, and an appeal shall lie to the Appeal Tribunal against the refusal of any such application.

9 If any person who is claiming or receiving or has received compensation under this Schedule—

- (a) executes a deed of relinquishment under the [Clerical Disabilities Act 1870 \(33 & 34 Vict. c. 91\)](#); or
- (b) becomes a member of a religious body which is not in communion with the Church of England; or
- (c) becomes disqualified under the Ecclesiastical Jurisdiction Measures 1963 and 1974 from holding preferment in the Church of England or has had imposed on him or her under the Clergy Discipline Measure [2003 \(No. 3\)](#) a penalty of removal from office, prohibition for life or for a limited period or revocation of his or her licence or has resigned;

the mission and pastoral committee may refuse the claim or, as the case may be, may order, subject to a right of appeal to the Appeal Tribunal, that no further payment of compensation shall be made to him or her under this Schedule.

10 It shall be the duty of every claimant and every applicant under paragraph 8 and every person who is receiving compensation under this Schedule by way of periodical payments, to disclose to the mission and pastoral committee any ecclesiastical office to which he or she has been appointed or which has been offered to him or her and any other remunerated employment in which he or she is or is to be engaged, and any such matter as is mentioned in paragraph 9, and if he or she fails to do so and it appears to the mission and pastoral committee that in consequence it has made payments which otherwise it would not have made or payments in excess of those that it would otherwise have made, it may, without prejudice to the powers under paragraph 7 or 9, direct the repayment of the amount of the payments or excess or such part thereof as it thinks just, and that amount shall be recoverable as a debt due to the diocesan board of finance.

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

11 (1) Subject to the following provisions of this paragraph, where any benefice, archdeaconry or office is dissolved, abolished, vacated or resigned in the circumstances mentioned in paragraphs 1 and 2—

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- (a) any period thereafter and before the retirement of the holder during which he or she is not in pensionable service within the meaning of the [Clergy Pensions Measure 1961 \(9 & 10 Eliz. 2 No. 3\)](#) (“the 1961 Measure”) shall be deemed for the purposes of that Measure and this paragraph to be a period of pensionable service, except that any period after the happening of any of the events mentioned in paragraph 9 shall be excluded;
- (b) on attaining the retiring age within the meaning of that Measure, he or she shall be deemed to retire for the purposes of that Measure and this paragraph, unless he or she is then in actual pensionable service, and, if his or her total period of pensionable service is less than the qualifying period of such service for the purposes of that Measure, it shall be deemed to be increased to that period;
- (c) the mission and pastoral committee may, if he or she is deemed to retire as mentioned in sub-paragraph (1)(b) and his or her total period of pensionable service is less than the prescribed period, add to his or her pension and the pension (if any) of his or her surviving spouse or surviving civil partner or dependant periodical payments not exceeding the amount necessary to bring the pension up to the amount that it would have been if the total period had been the prescribed period.

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

- (2) This paragraph shall apply in relation to any lump sum payable in accordance with any rules made under section 3 of the Clergy Pensions (Amendment) Measure 1967 ([1967 No. 1](#)) to a person entitled to a pension under the 1961 Measure as they apply in relation to a pension thereunder.
- (3) The mission and pastoral committee may, with the agreement of the Church of England Pensions Board and the incumbent, archdeacon or holder of any other ecclesiastical office who is subject to Common Tenure or (if he is dead) his or her surviving spouse or surviving civil partner or dependant make such modification of the provisions of this paragraph or substitute such other provisions as may appear to the committee to be more appropriate to the particular circumstances of the case and not less advantageous to the incumbent, archdeacon or holder of such an ecclesiastical office or his or her surviving spouse or surviving civil partner or dependant.
- (4) Compensation shall not be payable for any loss which the incumbent, archdeacon or holder of an ecclesiastical office who is subject to Common Tenure might suffer by reason of the provision in sub-paragraph (1)(b) that on attaining the retiring age within the meaning of the 1961 Measure he or she is deemed to retire for the purposes of that Measure and this paragraph, and, except as provided by sub-paragraph (1)(c), compensation shall cease to be payable when he or she attains that age.
- (5) In determining the amount of the compensation, if any, to which the incumbent, archdeacon or holder of an ecclesiastical office who is subject to Common Tenure is entitled under this Schedule in respect of any period before he or she retires or is deemed to retire for the purposes of the 1961 Measure and this paragraph, any benefit which may accrue to him by virtue of sub-paragraph (1) shall be disregarded.

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- (6) Any reference in this paragraph to the 1961 Measure shall be construed as a reference to that Measure as amended by any regulations approved under section 6 of the Clergy Pensions (Amendment) Measure 1972 (1972 No. 5).
- 12 (1) The functions of the mission and pastoral committee under this Schedule shall not be delegated to a sub-committee.
- (2) At any meeting of the mission and pastoral committee at which a determination or decision under this Schedule is made or at which the person affected by such a determination or decision is interviewed, the members present shall include either the bishop or a suffragan bishop if the bishop or that suffragan bishop is a member of the committee.
- (3) The diocesan board of finance shall nominate a person who is not a member of the mission and pastoral committee to attend any such meeting as is referred to in sub-paragraph (2) and the person so nominated shall be entitled to be present throughout and speak, but not vote, at the meeting.
- (4) If neither the bishop nor a suffragan bishop is a member of the committee or is able to attend any such meeting as is referred to in sub-paragraph (2) the bishop shall nominate himself or any suffragan bishop to attend the meeting and the person so nominated shall be entitled to be present throughout and speak, but not vote, at the meeting.
- 13 (1) For the purposes of this Schedule there shall be an Appeal Tribunal for each of the Provinces of Canterbury and York, which shall be constituted as follows—
- (a) The Dean of the Arches and Auditor shall chair the Tribunal and be known as the “Chair” and the Vicar-General of each of the Provinces of Canterbury and York shall be known as the “Deputy Chairs” and one or other of the three (but not more than one) shall sit on each appeal and shall preside:
- Provided that if one of the three is not available to preside over an appeal, a chancellor of a diocese nominated by the Dean of the Arches and Auditor or, in his or her absence or illness, by the Vicar General of the Province concerned shall preside over the appeal.
- (b) A panel of twelve persons shall be appointed from among the members of the Lower House of the Convocation of the Province concerned by, in the case of the Convocation of Canterbury, the Standing Committee of the Lower House and, in the case of the Convocation of York, the body of Assessors of the Lower House of that Convocation, in such manner as that House may determine, and three persons from the panel shall be nominated as aforesaid for each appeal.
- (c) A panel of twelve persons shall be appointed by the Standing Committee of the House of Laity of the General Synod from among the members of that House, in such manner as that House may determine, not less than one-half of whom have a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990) and one person from the panel shall be nominated as aforesaid for each appeal.
- (2) The persons appointed from among the members of the Lower House of the Convocations or the House of Laity as aforesaid shall be appointed for the lifetime of those Convocations or that House of Laity and, on a casual vacancy, another member of the House concerned shall be appointed in place of the person vacating office, in the same manner as that person was appointed, for the remainder of that lifetime:

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

- (3) The registrar of each province shall appoint a secretary to the Appeal Tribunal for that province, who may be the registrar.
 - (4) The same person may be appointed by both registrars as secretary to both Tribunals and the registrars of both provinces may agree that one of them shall be the secretary to both Tribunals.
 - (5) The expenses of an Appeal Tribunal in connection with any appeal shall be paid out of moneys standing to the credit of the diocesan pastoral account of the diocese from which the appeal is brought.
- 14 The Rule Committee established by section 25 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 may make rules prescribing the procedure to be followed in claiming and determining rights to and amounts of compensation under this Schedule, and in altering, terminating or suspending payments of compensation and also (except so far as it is regulated by rules made under the Church of England (Legal Aid) Measure 1994) the procedure in proceedings before the Appeal Tribunal and in any other proceedings under this Schedule.
- 15 Payments of compensation under this Schedule shall be made by the diocesan board of finance and charged either on the capital or the income account of the diocesan stipends fund, as may be determined by the board.