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STATUTORY INSTRUMENTS

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**2009 No. 2108**

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

**PART II**

**PARTICULARS OF OFFICE**

*Right to statement of particulars of office*

**Statement of initial particulars of office**

- 3.—(1) An office holder shall be given a written statement of particulars of office by—
- (a) an officer of the diocese nominated for that purpose by the diocesan bishop, or
  - (b) in the case of an office holder who is an archbishop or a diocesan bishop, by an officer of the province nominated by the registrar of the province in which the diocese is situated.
- (2) The statement may be given in instalments and (whether or not given in instalments) shall be given not later than the relevant date.
- (3) The relevant date for the purposes of paragraph (2) above shall be the expiry of the period of one month from the date on which the office holder took up the office.
- (4) The statement shall contain particulars of—
- (a) the name of the office holder and the title or description of the officer nominated by the bishop or registrar under paragraph (1) above and the body which is to be treated, for the purpose of these Regulations, as the respondent in any proceedings brought by the office holder before an employment tribunal,
  - (b) the title of the office to which the office holder has been appointed, and
  - (c) the date when the appointment took effect.
- (5) The statement shall also contain particulars, as at a specified date not more than seven days before the statement (or the instalment containing them) is given, of—
- (a) whether the office holder is entitled to a stipend and, if so, the amount of the stipend or the method of calculating it,
  - (b) the person or body responsible for the payment of the stipend,
  - (c) the intervals at which any stipend is payable (that is, weekly, monthly or other specified intervals),
  - (d) whether the office holder is entitled to receive parochial fees and the relationship, if any, of the receipt of such fees to any stipend,
  - (e) any terms and conditions relating to the reimbursement of expenses incurred in connection with the exercise of the office,
  - (f) whether the office is full-time or part-time and, in the case of part-time posts, and of posts for which special provision has been made for hours of work, any terms and conditions

relating to hours of work (including any terms and conditions relating to normal working hours),

- (g) any terms and conditions relating to any of the following—
  - (i) entitlement to rest periods and holidays, including public holidays,
  - (ii) incapacity for work due to sickness or injury, including any provision for sick pay,
  - (iii) pensions and pensions schemes, including, where the office holder comes within either the Church of England Pensions Scheme or the Church of England Funded Pensions Scheme, or both, a statement to that effect, and
  - (iv) entitlements to maternity, paternity, parental and adoption leave in accordance with regulation 23 below,
- (h) where the office holder is required, for the better performance of his or her duties, to occupy any particular residence, details of the address of the property concerned, the person or body to whom or which it belongs, the terms of occupation and any contents to be provided by the relevant housing provider,
- (i) the length of notice which the office holder is required to give and, if applicable, receive to terminate the appointment, and
- (j) where the appointment is not intended to be permanent, the circumstances in which it may be terminated or, if it is for a fixed term, the date when it is to end.

#### **Statement of initial particulars: supplementary**

4.—(1) If, in the case of a statement under regulation 3 above, there are no particulars to be entered under any of the paragraphs of that regulation or any of the heads of any such paragraph, that fact shall be stated.

(2) A statement under regulation 3 above may refer the office holder for particulars of any of the matters mentioned in it to these Regulations, to any Measure or Canon, to other regulations of the General Synod or specified provisions thereof or to the provisions of some other document which is reasonably accessible to the office holder.

(3) A statement shall be given to an office holder even if his or her appointment ends before the end of the period within which the statement is required to be given.

#### **Note about disciplinary, capability and grievance procedures and pensions**

5.—(1) A statement under regulation 3 above shall include a note—

- (a) in the case of office holders to whom the provisions of the Ecclesiastical Jurisdiction Measure 1963(1) relating to offences or of the Clergy Discipline Measure 2003(2) relating to misconduct apply specifying those provisions,
- (b) in the case of office holders other than those referred to in paragraph (a) above, specifying any disciplinary rules or procedures applicable to the office held by the office holder, and
- (c) in the case of all office holders, specifying any capability or grievance procedures relating to office holders.

(2) A note included in a statement under paragraph (1) above may comply with that paragraph by referring the office holder to any such laws or documents as are referred to in regulation 4(2) above.

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(1) 1963 No.1.  
(2) 2003 No.3.

(3) The note shall also state whether there is in force a contracting-out certificate (issued in accordance with Chapter I of Part III of the Pensions Schemes Act 1993(3)) stating that the office held by the office holder is contracted-out employment for the purposes of that Part of that Act.

### **Statement of changes**

6.—(1) If, after the material date, there is a change in any of the matters particulars of which are required by regulations 3 to 5 above to be included or referred to in a statement under regulation 3, the officer nominated by the bishop or registrar under regulation 3(1) shall give to the office holder a written statement containing particulars of the change.

(2) For the purposes of paragraph (1) above—

- (a) in relation to a matter particulars of which are included or referred to in a statement given under regulation 3 other than in instalments, the material date is the date to which the statement relates,
- (b) in relation to a matter particulars of which are included or referred to in an instalment of a statement given under regulation 3, the material date is the date to which the instalment relates, and
- (c) in relation to any other matter, the material date is the date by which a statement under regulation 3 is required to be given.

(3) A statement under paragraph (1) above shall be given at the earliest opportunity and, in any event, not later than one month after the change in question.

(4) A statement under paragraph (1) may refer the office holder to any such laws or documents as are referred to in regulation 4(2) above.

### **Reasonably accessible document**

7. In regulation 4 above the reference to a document which is reasonably accessible to an office holder is a reference to a document which—

- (a) the office holder has reasonable opportunities of reading in the course of the exercise of his or her office, or
- (b) where details of a website have been provided to the office holder, the office holder can gain access to without incurring unreasonable expense, or
- (c) is made reasonably accessible to the office holder in some other way.

### **Right to itemised statement of stipend**

8.—(1) An office holder to whom a stipend is payable has the right to receive from the person or body who or which is responsible for the payment of the stipend, at or before the time at which any payment of stipend is made to him or her, a written itemised statement of stipend.

(2) The statement shall contain particulars of—

- (a) the gross amount of the stipend,
- (b) the amounts of any deductions from that gross amount and the purposes for which they are made, and
- (c) the net amount of stipend payable.

## Enforcement

### References to employment tribunals

9.—(1) Where the officer nominated under regulation 3 above does not give an office holder a statement as required by regulation 3 or 6 or where the office holder is not given a statement as required by regulation 8 (either because the person or body concerned gives no statement or because the statement which is given does not comply with what is required), the office holder may require a reference to be made to an employment tribunal to determine what particulars ought to have been included or referred to in a statement so as to comply with the requirements of the provision concerned.

(2) Where—

- (a) a statement purporting to be a statement under regulation 3 or 6 above, or a statement of stipend purporting to comply with regulation 8, has been given to an office holder, and
- (b) a question arises as to the particulars which ought to have been included or referred to in the statement so as to comply with the requirements of this Part of these Regulations,

either the person or body concerned or the office holder may require the question to be referred to and determined by an employment tribunal.

(3) For the purposes of this paragraph—

- (a) a question as to the particulars which ought to have been included in the note required by regulation 5 above to be included in the statement under regulation 3 does not include any question whether the office is, has been or will be treated as contracted-out employment (for the purposes of Part III of the Pensions Schemes Act 1993<sup>(4)</sup>), and
- (b) a question as to the particulars which ought to have been included in a statement of stipend does not include a question solely as to the accuracy of an amount stated in any such particulars.

(4) An employment tribunal shall not consider a reference under this section in a case where the appointment to which the reference relates has ended unless an application requiring the reference to be made was made—

- (a) before the end of the period of three months beginning with the date on which the appointment ended, or
- (b) within such period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the application to be made before the end of that period of three months.

### Determination of references

10.—(1) Where, on a reference under regulation 9 above, an employment tribunal determines particulars as being those which ought to have been included or referred to in a statement given under regulation 3 or 6 above, the officer nominated under regulation 3 shall be deemed to have given the office holder a statement in which those particulars were included, or referred to, as specified in the decision of the tribunal.

(2) On determining a reference under regulation 9(2) above relating to a statement purporting to be a statement under regulation 3 or 6, an employment tribunal may—

- (a) confirm the particulars as included or referred to in the statement given by the person nominated under regulation 3,
- (b) amend those particulars, or

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(4) 1993 c. 48.

(c) substitute other particulars for them,  
as the tribunal may determine to be appropriate; and the statement shall be deemed to have been given by that person to the office holder in accordance with the decision of the tribunal.

- (3) Where on a reference under regulation 9 above an employment tribunal finds—
- (a) that the person or body responsible has failed to give an office holder a statement of stipend in accordance with regulation 8, or
  - (b) that a statement of stipend does not, in relation to any deduction, contain the particulars required to be included in that statement by that regulation,

the tribunal shall make a declaration to that effect.

(4) Where on a reference in a case to which paragraph (3) above applies the tribunal further finds that any un-notified deductions have been made from the stipend of the office holder during the period of thirteen weeks immediately preceding the date of the application for the reference (whether or not the deductions were made in breach of the terms and conditions of the appointment), the tribunal may order the person or body who or which is responsible for the payment of the stipend to pay the office holder a sum not exceeding the aggregate of the un-notified deductions so made.

(5) For the purposes of paragraph (4) above a deduction is an un-notified deduction if it is made without the person or body concerned giving the office holder, in any statement of stipend, the particulars of the deduction required by regulation 8.