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STATUTORY INSTRUMENTS

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**2009 No. 2108**

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

**PART VIII**

**UNFAIR DISMISSAL**

*Rights on unfair dismissal*

**Right to apply to employment tribunal**

**33.**—(1) Where the appointment of an office holder has been terminated by notice given under section 3(6) of the Measure following adjudication under procedures carried out under regulation 31 above, the office holder shall have the right not to be unfairly dismissed.

(2) Subject to paragraph (3) and (4) below Part X of the Employment Rights Act 1996<sup>(1)</sup> (in this regulation referred to as “the 1996 Act”) shall apply in relation to an office holder who is dismissed in the circumstances described in paragraph (1) above as it applies to an employee who is dismissed for a reason relating to the capability of the employee in accordance with section 98(2) of the 1996 Act and as if in that Act—

- (a) any reference to an employee were a reference to the office holder;
- (b) except in the case of a person holding office in a cathedral, any reference to an employer were a reference to the Diocesan Board of Finance for the diocese in which, on the date on which the office was terminated, the office holder exercised his office;
- (c) in the case of a person holding office in a cathedral, any reference to an employer were a reference to the Chapter of the cathedral; and
- (d) any reference to employment were a reference to the holding of an office;

and as if the office holder had been dismissed by that Diocesan Board of Finance or that Chapter, as the case may be, and the reason or principal reason stated in the notice referred to in paragraph (1) above were the reason or principal reason for the dismissal.

(3) Section 108 of the 1996 Act shall not apply in relation to an office holder who has the right not to be unfairly dismissed under this regulation and for the purposes of Part X of that Act the office holder shall be treated as if the period of continuous holding of the office were the period beginning with the date on which the office holder was appointed and ending with the date of the notice referred to in paragraph (1) above.

(4) This regulation shall not apply to any office holder who has attained the retirement age specified in relation to the office holder’s office in section 1 of the Ecclesiastical Offices (Age Limit) Measure 1975<sup>(2)</sup>

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(1) 1996 c.18.  
(2) 1975 No.2.