

Appointments Act 2019

AN ACT

to provide for the appointment of clergy and licenced lay ministers to parishes and related matters.

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

Enacted: No 2, 2019

PART 1 – OBJECTIVES AND GUIDING PRINCIPLES

Short title

1. This Act may be cited as the Appointments Act 2019.

Purposes

2. The purposes of this Act are -
 - 2.1. To re-enact those portions of the Parish Administration Act 1984 which provided for the appointment of clergy and related matters;
 - 2.2. To establish limited tenure for all appointments and establish a system of review and
 - 2.3. To codify arrangements relating to annual leave.

Objectives

3. The overarching objective of this Act is the advancement in the diocese of Wangaratta of the gospel and mission of Jesus Christ as received by the Church in ancient times and as continued through the work of the Catholic and Apostolic Church of which the Anglican Church of Australia stands in succession.
4. All persons with powers and functions under this Act or who are appointed to offices under this Act shall exercise their powers and functions and carry out the responsibilities of their offices having regard to the Anglican Church's mission to:
 - 4.1. proclaim the Good News of the Kingdom;
 - 4.2. teach, baptise and nurture new believers;
 - 4.3. respond to human need by loving service;
 - 4.4. transform unjust structures of society, to challenge violence of every kind and pursue peace and reconciliation; and

- 4.5. strive to safeguard the integrity of creation and sustain and renew the life of the earth.

Definitions

5. In this Act -

Incumbent means a person in priest's orders appointed to the office of vicar of a parish

Deacon in charge means a person in deacon's orders appointed to carry out the duties of an incumbent

Priest in charge means a person in priest's orders appointed to carry out the duties of an incumbent

Clearance includes a certificate or statement from the Director of Professional standards that a person is cleared for ministry

Lay minister means a person not in holy orders appointed to a ministry role in a parish

Licence means a licence under the Bishop's seal appointing a person to an office in the Diocese

Locum tenens means a person in holy orders appointed by the Bishop to a temporary role in a parish during the absence of an incumbent or priest in charge

Parish means a parish as defined in the *Parish Governance Act 2019*

Bishop means the Bishop of Wangaratta

PART 2 – APPLICATION OF THIS ACT

Roles and positions to which this Act applies

6. This Act applies to and governs the appointments of persons to an office in a parish as -
 - 6.1. incumbent;

- 6.2. priest-in-charge;
 - 6.3. assistant curate;
 - 6.4. associate priest;
 - 6.5. deacon-in-charge; or
 - 6.6. licensed lay minister.
7. This Act also applies to and governs the appointment of persons in holy orders to the offices of
- 7.1. Archdeacon; or
 - 7.2. Area Dean.
8. This Act applies to stipendiary and non-stipendiary clergy and lay ministry appointments in parishes.

Appointments to which the Act does not apply

9. This Act does not apply to the appointment of -
- 9.1. persons appointed by an incumbent or by an incumbent and churchwardens to a role in a parish under the *Parish Governance Act 2019*; or
 - 9.2. persons holding the Bishop's licence for an office role or position not referred to in section 6 of this Act.

PART 3 – TYPES OF APPOINTMENTS

Appointments in a parish

10. Subject to this Act, a person in holy orders may be appointed to one of the following positions in a parish;
- 10.1. incumbent;
 - 10.2. priest-in-charge;
 - 10.3. assistant curate;
 - 10.4. associate priest; or
 - 10.5. deacon-in-charge.
11. Subject to this Act a person not in holy orders may be appointed to the position of licensed lay minister in a parish.

12. The appointment in any case may be made on a stipendiary or non-stipendiary basis.
13. Where an appointment is made on a stipendiary basis the provisions of the *Parish Governance Act 2019* must be complied with.

Appointment as Archdeacon

14. Subject to this Act a person in holy orders may be appointed by the Bishop to the office of Archdeacon.
15. An appointment as Archdeacon may be made -
 - 15.1. as a part time appointment to one or more persons already holding an office under this Act; or
 - 15.2. on a full time stipendiary basis.

Appointment as Area Dean

16. Subject to this Act a person in holy orders who already holds an appointment under this Act may be appointed by the Bishop to the office of Area Dean.
17. An appointment as Area Dean is a part time appointment made in addition to the person's existing appointment under this Act.

PART 4 – PROCESS OF APPOINTMENTS

The role of the bishop

18. The right and power to make any appointment under this Act is vested in the Bishop.
19. In exercising the right and power of appointment to an office in a parish the Bishop shall consult with -
 - 19.1. the Board of Nominators where the appointment is to the office of incumbent, priest in charge or deacon in charge; and
 - 19.2. in any other case, with the incumbent of the parish to which an appointment is to be made.

The Board of Nominators

20. The Board of Nominators shall comprise:
 - 20.1. The Bishop as ex officio chair;
 - 20.2. Three diocesan nominators; and
 - 20.3. Three parish nominators.

21. The role of the Board of Nominators is to -
 - 21.1. identify in accordance with this Act persons suitable to be appointed to positions as incumbent, priest in charge or deacon in charge of a parish;
 - 21.2. assess in accordance with this Act the merits of those potential appointees; and
 - 21.3. elect by majority vote a proposed appointee to a parish for consideration for appointment by the Bishop.

22. The Board of Nominators may be convened by the Bishop at any time after notification is received that there is, or will within 6 months be, a vacancy in a parish.

23. For the purposes of this Act a vacancy in a parish occurs when the appointment of the person holding office as incumbent, priest in charge or deacon in charge comes to an end in accordance with this Act.

24. The Board of Nominators may be convened and may carry out its functions under this Act prior to the expiration of the existing appointment in the parish.

25. The Bishop may delegate their role as ex officio chair of the Board of Nominators to the Archdeacon.

26. Subject to this Act, the Board of Nominators may determine its own procedures for the identification and consideration of suitable candidates for appointment.

27. The processes of the Board of Nominators are confidential.

28. The election of a proposed appointee will be by majority vote of the diocesan nominators and parish nominators. In the event of an equal vote the Bishop may exercise a casting vote.

The Diocesan Nominators

29. At the first session of each Synod there will be an election of -

- 29.1. three persons in holy orders as diocesan nominators; and
 - 29.2. up to three persons as supplementary diocesan nominators.
30. Any person in holy orders who holds a licence in the Diocese is eligible to be elected as a diocesan nominator.
31. The timing of the election during the Synod will be as specified by the President of the Synod.
32. The election will be by ballot conducted in accordance with the usual processes of the Synod.
33. The role of diocesan nominator will be vacant if a person elected to the role -
- 33.1. ceases to hold a licence in the diocese;
 - 33.2. resigns; or
 - 33.3. dies.
34. Where there is a vacancy in the role of diocesan nominator, the vacancy may be filled by Bishop in Council from the list of supplementary nominators.

Parish nominators

35. Each parish shall elect, in accordance with the provisions of the *Parish Governance Act 2019*, three persons to the role of parish nominator and up to three persons as supplementary parish nominators.

The role of the incumbent in other appointments to a parish

36. Where an appointment is proposed to be made to a parish under this Act (other than an appointment to a position exercising the duties of an incumbent) the incumbent shall be entitled to -
- 36.1. propose a name or names of persons suitable to be appointed; and
 - 36.2. be consulted by the Bishop regarding the suitability of a person proposed to be appointed.

Professional Standards

37. The Bishop shall consult with the Director of Professional Standards regarding any proposed appointment under this Act and may have such regard as they think fit to any information provided by the Director of Professional Standards.

PART 5 – CRITERIA FOR APPOINTMENT

38. In exercising their functions under this Act the Bishop, the Board of Nominators and the incumbent shall have regard to any relevant consideration including -

- 38.1. the objectives of this Act; and
- 38.2. the matters set out in this Part.

Academic qualifications

39. Any person appointed to an office under this Act shall -

- 39.1. hold at least a graduate diploma in theology or its equivalent; or
- 39.2. be enrolled in a course of study leading to a qualification at the graduate diploma in theology level or its equivalent and demonstrate to the satisfaction of the Bishop that they are suitable to be appointed pending completion of their qualification.

40. No person may be appointed as incumbent of a parish unless they hold or are eligible to be awarded a bachelor's degree in theology or its equivalent.

41. The Bishop may at their discretion appoint a person who does not hold the academic qualifications specified in this Part to an office under this Act where the interests of ministry in the parish or the Diocese so require.

Relevant considerations

42. In making decisions regarding the appointment of persons to positions in a parish under this Act the Board of Nominators and the Bishop shall have regard to -

- 42.1. the objectives of this Act;
- 42.2. the profile of the parish;
- 42.3. the ministry and pastoral needs of the parish;
- 42.4. the particular gifts, skills and experience of any person being considered for appointment;
- 42.5. the extent to which the gifts, skills and experience of any person being considered for appointment make them suitable to serve the mission of God in the parish and to meet the needs of the parish;

- 42.6. the financial resources of the parish; and
- 42.7. the overall ministry needs of the diocese.

Age limitations

- 43. Unless the Bishop otherwise determines having regard to the criteria in section 42 and on the recommendation of the Board of Nominators, a person is not eligible to be appointed to an office under this Act if they have reached the age of 67.

Persons not eligible for appointment

- 44. A person who has at any time in the preceding 12 months served as the locum tenens of a vacant parish is not eligible to be appointed as incumbent or priest in charge of that parish unless the Bishop otherwise determines.

PART 6 – CONDITIONS OF APPOINTMENT

Duration of appointment

- 45. An appointment as incumbent in a parish is an appointment for a term of ten years on a full time basis subject to -
 - 45.1. satisfactory review after 3 years and continued compliance with the conditions of appointment; and
 - 45.2. the parish continuing to require and be able to support full time ministry.
- 46. An appointment to any other position in a parish under this Act is an appointment for a term of three years subject to satisfactory review after one year and continued compliance with the conditions of appointment.
- 47. An appointment as Archdeacon is an appointment at the pleasure of the Bishop and may be terminated at any time if the Bishop considers it appropriate in the interests of good order in the Diocese to do so.
- 48. An appointment as Area Dean is an appointment at the pleasure of the Bishop and may be terminated at any time if the Bishop considers it appropriate in the interests of good order in the Diocese to do so.
- 49. A person who has completed an appointment in a parish is eligible for appointment for a further term to the same or a different office in the parish.

50. Nothing in this Act prevents the Bishop from appointing a person in holy orders as locum tenens of a parish.

General conditions of appointment

51. In addition to the general obligation to carry out the duties of their office, holders of any office under this Act must for the duration of their appointment -
- 51.1. continue to hold all necessary clearances and Safe Ministry Checks required under the applicable professional standards legislation or State or Commonwealth law;
 - 51.2. have regular contact with a spiritual director;
 - 51.3. participate in professional supervision;
 - 51.4. participate in continuing professional education;
 - 51.5. participate in the life and mission of the Diocese, including Synod and area deaneries; and
 - 51.6. participate in the review process set out in this Part.

Termination of appointment

52. An appointment to any office under this Act comes to an end on the first of -
- 52.1. the appointee resigning their office;
 - 52.2. the conclusion of the term specified by this Act;
 - 52.3. the appointee reaching the age of 67 years, unless the Bishop otherwise authorises under this Part;
 - 52.4. the appointee being removed from their office as a result of a professional standards process or the decision of the Diocesan Tribunal;
 - 52.5. a decision by the Bishop under section 64 to revoke the appointment after a review process;
 - 52.6. in the case of an appointment as incumbent, the parish being declared a parochial district under the *Parish Governance Act 2019* or ceasing to require full time ministry; or
 - 52.7. the appointee's death.
53. An appointee who reaches the age of 67 during their term of office may be eligible at the Bishop's discretion for the granting of a permission to officiate or dispensation to continue in their ministry on such terms as the Bishop may determine.

54. In exercising the discretion under section 53 the Bishop may have regard to such factors as they think fit, including the matters set out in section 42 that would be applicable if the person were being considered for a new appointment.

Reviews

55. All persons appointed to an office under this Act will participate in a regular review process in accordance with this Part.
56. The objectives of the review process are to –
- 56.1. ensure that the objectives of this Act are being advanced;
 - 56.2. support clergy and lay ministers in the carrying out of the responsibilities of their office;
 - 56.3. ensure the needs and mission of the parish and the Diocese are being served; and
 - 56.4. contribute to the continued professional development of clergy in the Diocese.
57. The function of the review process is to -
- 57.1. assess the person's ministry over the preceding period of time;
 - 57.2. provide an opportunity for the parish, the person and the Bishop to reflect on the current and future ministry needs of the parish;
 - 57.3. identify areas where the person is meeting or failing to meet the needs of the parish and the diocese;
 - 57.4. where relevant, identify areas of necessary change or improvement;
 - 57.5. identify professional development and learning opportunities for clergy and lay ministers; and
 - 57.6. provide a mechanism by which, in cases of substantial failures in office or complete pastoral breakdown in a parish, an appointment may be brought to an end.
58. Subject to this Act, the form, content and frequency of the review process for any office under this Act will be set by the Bishop after consultation with the Archdeacon and the Area Deans.

59. In making decisions about the form, content and frequency of the review process, whether generally or in a particular case, the Bishop shall have regard to matters including -
- 59.1. The objectives of the review process;
 - 59.2. The principle that clergy should be assisted to develop their gifts and skills in ministry;
 - 59.3. The importance of continuous support and feedback outside the formal review processes mandated by this Act;
 - 59.4. The resources available in the Diocese; and
 - 59.5. Where relevant, the outcome of previous reviews.
60. Every person who is the subject of a review is entitled to be supported in the review process by a support person nominated by them.
61. The Bishop may maintain a register of persons suitable to fulfil the role of support person.

Outcome of review process

62. At the conclusion of any review process the Bishop will provide the person with feedback and an opportunity to discuss the person's future ministry in the parish in light of that feedback.
63. Where after a review process the Bishop forms the view that a person holding an office under this Act is not fulfilling the duties of their office or requires support to fulfil those duties into the future the Bishop may, subject to the extent and nature of the identified lapses or deficiencies of duty or support needs, take one or more of the following actions;
- 63.1. counsel the person on the identified lapses;
 - 63.2. require the person to undertake specified education or training;
 - 63.3. require the person to participate in counselling, mediation or treatment; and
 - 63.4. set a further review period within which the deficiencies are to be addressed.
64. Where after a review process the Bishop forms the view that it is necessary for the furtherance of ministry in the parish that the person cease their ministry in the parish, the Bishop may revoke the person's appointment in the parish.

65. For the purpose of section 64 “necessary for the furtherance of ministry” means -
- 65.1. the person under review has shown continued and substantial failures in office such that the life of the parish will be substantially damaged unless the person is removed; or
 - 65.2. there is a complete pastoral breakdown in the parish that is attributable at least in part to the conduct of the person under review.
66. The Bishop’s power to take action under sections 63 and 64 may only be exercised where -
- 66.1. the person has been given notice of the proposed action and the reasons for it;
 - 66.2. the Bishop is satisfied that the person has had access to appropriate support and advice about the proposed action, including the opportunity to improve;
 - 66.3. the person has been given the opportunity to make a response to the proposed action; and
 - 66.4. the Bishop has received and considered any response.
67. Nothing in this Act limits or alters the powers of the Bishop under any other Act, including the power to require clergy to engage such counselling or treatment as the Bishop reasonably considers necessary.
68. Nothing in this Act prevents the Bishop and the Archdeacon from making supportive arrangements for clergy who from time to time require assistance of the kinds set out in section 63 outside of the formal review process.

PART 7 – LEAVE ARRANGEMENTS

Leave generally

69. Persons holding offices under this Act shall be entitled to such leave as the Bishop-in-Council may from time to time determine.
70. All leave accrued and taken by holders of offices under this Act shall be in accordance with this Act.

Arrangements for leave: persons with primary responsibility for a parish

71. An incumbent, priest in charge or deacon in charge proposing to be away from their parish for more than 24 hours must notify a responsible officer of the parish before the period of leave commences.
72. An incumbent or priest in charge or deacon in charge proposing to be away from their parish for a continuous period exceeding 24 hours must make application to the Bishop in writing a reasonable time in advance of the period of proposed leave.
73. An application under section 72 must be endorsed by the parish council and include details of the arrangements that will be in place for care of the parish in the absence of the incumbent or priest-in-charge.
74. An application for leave may be refused by the Bishop if suitable arrangements for the care of the parish have not been made, including ensuring that any person proposed to minister to the parish holds a permission to officiate from the Bishop or a letter of good standing from another diocese.

Arrangements for leave – other office holders

75. Assistant and associate clergy and lay ministers must obtain the authorisation of the incumbent in advance of any period of leave.

Accrual and use of annual leave

76. Except with the prior approval of the Bishop, annual leave shall be taken within the year in which the entitlement for leave accrued plus one month, that is, within 13 months of the start of the period in which the annual leave accrued.

PART 8 – TRANSITIONAL AND MISCELLANEOUS

77. All appointments made under the Parish Administration Act 1984 which are current as at the date this Act comes into force are to be taken as being appointments made under and subject to this Act save and except that any person holding office as incumbent under the Parish Administration Act who was not under that Act subject to a ten year term of office is not subject to any such limit by reason of this Act.

Power of Bishop

78. The Bishop may delegate any of their powers under this Act to the Archdeacon with the exception of -
- 78.1. the power to appoint; and
 - 78.2. the power to revoke an appointment.

Power of Bishop-in-Council to make or amend protocols

79. The Bishop-in-Council may by ordinary resolution and subject to its ordinary processes;
- 79.1. Approve any protocol or guideline regarding the way in which any person or body holding office under this Act is to exercise their powers or perform their functions; and
 - 79.2. Amend or revoke any protocol or guideline previously made under section 79.1.

Passed:

Assented to:

.....