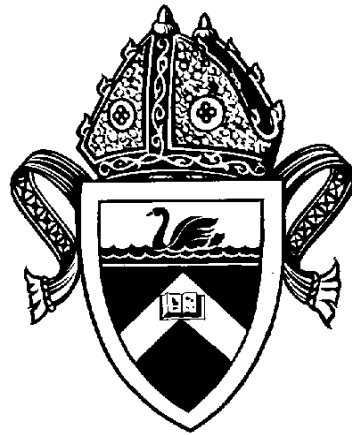


ANGLICAN CHURCH OF AUSTRALIA

DIOCESE OF GIPPSLAND



Appointments Act 1994

(Including Amendments to 2019)

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23 May 2019

**APPOINTMENTS ACT
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AN ACT

relating to the appointment and tenure of clergy and for other purposes

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

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the **Appointments Act 1994**.

Commencement

2. This Act comes into operation on 1 January 1995.

Definitions

3. In this Act -

"Board" means -

- (a) in Parts 2 and 3, the Clergy Appointments Advisory Board constituted under those Parts; and
- (b) in Part 4, the Board of Reference constituted under that Part;

"diocesan member" means member of the Board elected by Synod;

"member" means a member of the Board;

"parish member" means member of the Board elected or appointed by a parish;

"vacancy date", in relation to an incumbency, means the date declared by the Bishop to be the date on which the incumbency became, or will become, vacant.

PART 2- CLERGY APPOINTMENTS ADVISORY BOARD

Clergy Appointments Advisory Board

4. (1) There shall be a Clergy Appointments Advisory Board.

(2) The function of the Board is to make recommendations, or nominations, to the Bishop for the appointment of incumbents to parishes and the extension of tenure beyond 10 years.

Members of Board

5. The Board shall consist of -

- (a) the Bishop, who shall be chairperson;
- (b) the Archdeacons of the diocese;
- (c) the persons elected by Synod in accordance with this Act;
- (d) the persons elected or appointed by the parishes in accordance with this Act.

Diocesan members

6. (1) The Synod shall, at the first session of each Synod, elect by ballot -

- (a) 3 members of Synod who are in priest's orders; and
- (b) 3 lay members of Synod -

to be the diocesan members of the Board.

(2) The diocesan members hold office, subject to this Act, until the next election of members of the Board but are eligible for re-election.

Parish members

7. (1) Each parish shall, at the annual general meeting next before the first session of each Synod, elect or appoint -

- (a) 3 electors of the parish as parish members; and
- (b) 1 elector of the parish as a supplementary parish member.

(2) A casual vacancy occurring in the office of a parish member or supplementary parish member of a parish shall be filled by an elector of the parish appointed by the parish council.

(3) A person elected or appointed under this section holds office, subject to this Act, until the next election or appointment of parish members by that parish in accordance with sub-section (1).

Constitution of Board for purposes of making recommendation

8. (1) For the purpose of carrying out its function, the Board shall be constituted by -

- (a) the Bishop, who shall be chairperson;
- (b) an Archdeacon nominated by the Bishop;

- (c) 2 diocesan members nominated by the Bishop, one of whom is a priest and one a lay person;
- (d) subject to section 12, the 3 parish members, or 2 parish members and the supplementary parish member, from the parish for which the appointment is to be made.

(2) An Archdeacon or other priest is not eligible to be a member of the Board as constituted for the purposes of carrying out its function in relation to a parish of the Archdeacon or priest -

- (a) is the incumbent of that parish;
- (b) was the last incumbent of that parish; or
- (c) is nominated for consideration by the Board for appointment to that parish.

(3) If there are no parish members and no supplementary parish member of a parish in relation to which an appointment is to be made, the Bishop, after consultation with the diocesan members and the parish council, may make such appointment to the parish as the Bishop determines, despite anything to the contrary in this Act.

Convening of Board

9. (1) When the incumbency of a parish is, or is to become, vacant, the Bishop shall convene the Board, giving notice in writing to the relevant Archdeacon and relevant diocesan members and parish members, and to the secretary of the parish council of the parish concerned.

(2) If there is as dispute as to the date on which the incumbency of a parish became, or is to become, vacant, the Bishop shall determine the date of the vacancy.

Board as constituted to continue

9A Where the incumbency of a parish is, or is to become, vacant and the Board has been convened under section 9, the Diocesan members and Parish members of the Board as constituted in relation to that parish continue in office, despite the election or appointment of their successors in accordance with this Act, until—

- (a) the Board makes a nomination to the Bishop under section 11 which is accepted by the Bishop; or
- (b) if the Board is reconvened under section 11(4) or (7), the Board makes a nomination which is accepted by the Bishop; or
- (c) the expiration of 4 months after the date on which the parish became vacant—

whichever first occurs."

Inserted by Act 365/2010

Meetings

10. (1) The quorum for a meeting of the Board is the chairperson, 2 diocesan members and 2 parish members.

(2) The chairperson of the Board shall not vote except to exercise a casting vote in the event of an equality of votes.

(3) If the members so determine at a meeting of the Board, the members may exercise a vote in writing sent by post or by telephone to the chairperson of the Board.

Nominations and recommendations

11. (1) A member may propose to the Board the name of a priest, whether licensed in the diocese or from outside the diocese.

(2) The Board, after considering the proposed names, may make a nomination to the Bishop of a priest, or, in order of preference, 2 or more priests.

(3) The Bishop shall determine whether to accept the nomination, or one of the nominations.

(4) If the Bishop declines to accept the nomination, or any of the nominations, the Board shall be re-convened and may make a nomination of not more than 3 priests, in order of preference.

(5) The Bishop shall determine whether to accept one of the nominations.

(6) The Bishop is not required to give a reason for declining to accept a nomination.

(7) If the Bishop, having declined one or more nominations, determines not to make an appointment for 3 months after the vacancy date, the Board shall be reconvened and may make such further nominations to the Bishop as it thinks fit during that period.

(8) If -

(a) a nomination has not been made under sub-section (2) or (4) within 4 months after the vacancy date; or

(b) if sub-section (7) applies, a nomination has not been made within the period referred to in that sub-section -

the Board may not make any further nominations and the Bishop shall appoint a priest as incumbent of the parish as soon as possible.

Parishes in default not entitled to parish members on Board

12. (1) If, before the first meeting of the Board after the incumbency of a parish is, or is to become vacant, the parish council has not paid all arrears in respect of its obligations to the diocese during the term of office of its present, or last, incumbent, the Bishop may determine that the Board not be convened unless the parish council, within such time as the Bishop allows, pays the arrears.

(2) If, in accordance with sub-section (1), the Board is not convened, the Bishop shall appoint a priest as incumbent of the parish as soon as possible.

PART 3 -TENURE OF INCUMBENT

"Tenure

13. Except as otherwise provided in this Act, the term of office of a priest appointed as incumbent of a parish is-

- (a) the period of 10 years beginning on the date on which the priest is inducted to the parish; or
- (b) the period beginning on that date and ending on the day on which the priest attains the age of 70 years-

whichever is the shorter."

Inserted by Act 355/2007

Extension of tenure of incumbent before age 70

14. (1) The tenure of an incumbent may, with the consent of the incumbent, and after consultation with the parish council and the Board, be extended by the Bishop for a period, or successive periods, not in any case exceeding 3 years and not in any case extending beyond the day before the day on which the incumbent attains the age of 70 years.

(2) At least 12 months before the expiry of the tenure of an incumbent, the Bishop shall discuss with the incumbent the incumbent's wishes for future ministry and the Bishop shall, at least 3 months before the expiry, notify the incumbent whether or not the tenure is to be extended under sub-section (1).

Inserted by Act 342/2003

Extension of tenure of incumbent after attaining age 70

14A. (1) The Bishop may extend the tenure of a priest appointed as incumbent of a parish who has attained the age of 70, but not the age of 75, for a period of not more than three years if –

- a) at least 12 months before the expiry of the incumbent's tenure, the incumbent has advised the Bishop that he or she seeks an extension of the incumbency; and

- b) the incumbent has, within the previous 6 months, undergone a ministerial review in a form approved by the Bishop; and
- c) the Parish Council recommends the extension; and
- d) the Clergy Appointments Advisory Board recommends the extension.

(2) If the Bishop extends the tenure of an incumbent under subsection (1), the Bishop may further extend the tenure of that incumbent, subject to paragraphs (a), (b), (c) and (d) of subsection (1), for a period ending before the incumbent attains the age of 75.

Inserted by Act 390/2019

Resignation

15. (1) The incumbent of a parish may resign by giving to the Bishop at least 3 months' notice in writing, or such shorter period of notice in writing as is agreed with the Bishop.

(2) If an incumbent has given notice of resignation from the incumbency of a parish, the Bishop may agree to the incumbent's continuing to carry out the duties of the incumbent of the parish for such period as the Bishop approves.

(3) The stipend and other allowances payable to a minister who continues to carry out the duties of incumbent shall be at the same rate as before the date on which the resignation took effect, unless the parish council and the Bishop otherwise agree.

Vacation of incumbency on entitlement to stipend continuance payments (Inserted by Act No. 347/04 and amended by Act 375/12)

15A. "*Vacation of incumbency on entitlement to stipend continuance payments*

- (1) The incumbency of a priest instituted to a parish becomes vacant upon the priest becoming entitled to stipend continuance payments as a result of the acceptance of a claim under an approved insurance policy.
- (2) In this section—

approved insurance policy means an insurance policy, or a class of insurance policy, approved for the time being for the purposes of this section by the Bishop in Council, that provides for stipend continuance payments.

stipend continuance payments means payments under an approved insurance policy to a priest during the temporary disability of the priest, being payments in lieu of stipend at a rate specified in the approved insurance policy."

PART 4 - TERMINATION OF APPOINTMENT OF INCUMBENT

Removal of incumbent

16. (1) If the Bishop is satisfied that the incumbent of a parish is causing, by acts or omissions, serious detriment to the parish, the Bishop may ask the incumbent to show cause -

(a) why the incumbent should not be transferred to another appointment;

or

(b) why the appointment of the incumbent should not be terminated.

(2) If the incumbent does not satisfy the Bishop that -

(a) the incumbent should not be transferred; or

(b) the appointment should not be terminated -

the Bishop may, by notice in writing to the incumbent, seek the resignation of the incumbent with effect from a date within the next 3 months.

(3) If the incumbent does not resign in accordance with the notice under sub-section (2), the Bishop may direct the incumbent to appear before a Board of Reference on a day, being not earlier than 21 days after the direction is given, specified in the direction.

Board of Reference

17. (1) There shall be a Board of Reference consisting of 4 clerical and 3 lay members of Synod.

(2) The members of the Board of Reference shall be elected at the first session of each Synod and shall hold office until the election of their successors.

(3) The chairperson of a meeting of the Board shall be a member elected by the members at the meeting.

(4) The Registrar shall be the secretary of the Board, but is not a member.

(5) A quorum of the Board is 5 members.

(6) Before each meeting of the Board, the members present shall sign a declaration of secrecy in respect of the proceedings of the Board.

(7) Despite sub-section (2), if the Board has not concluded a reference made before the election of new members of the Board, the Board as constituted when the reference was made shall continue to deal with the reference until it is concluded.

Convening of Board of Reference

18. (1) The Bishop shall give not less than 14 days' notice in writing to the members of the Board of a meeting of the Board.

(2) The Bishop may postpone the meeting if the incumbent reasonably requests the postponement or for other sufficient reason.

Meeting of Board of Reference

19. (1) The Bishop may refer to the Board the matter of the transfer of an incumbent of a parish to another appointment, or the matter of the termination of the appointment of the incumbent.

(2) A lay member of the Board who is an elector of a parish shall not be present at a meeting of the Board while a matter relating to the incumbent of that parish is being considered.

(3) If the Bishop makes a reference to the Board, the Bishop shall submit the following questions to the Board for determination:

- (a) Is it your opinion that the parish is suffering serious detriment because of the acts or omissions of the incumbent in the parish?
- (b) Do you advise the Bishop to transfer the incumbent to another appointment?
- (c) Do you advise the Bishop to terminate the appointment of the incumbent?
- (d) Do you advise the Bishop to suspend the incumbent from the incumbency, and if so for what period?

(4) If the incumbent does not comply with the direction to be present at the meeting, the meeting may proceed in the absence of the incumbent.

(5) The incumbent may be represented at the meeting (whether or not also present in person) by an advocate of the incumbent's choice.

(6) The Bishop shall give to the meeting a statement of the reasons for the reference to the Board.

(7) The incumbent shall be given an opportunity to be heard personally or by an advocate.

(8) The Board may make such enquiries as it thinks fit and may call for such evidence as it thinks fit.

Determination of Board

20. (1) The members of the Board shall deliberate in private before making a determination.

(2) The determination of a majority of the Board is a determination of the Board.

- (3) The Board -
- (a) may recommend to the Bishop that the incumbent should be transferred to another appointment; or
 - (b) may determine that the appointment of the incumbent be terminated; or
 - (c) may make such other recommendations as it thinks fit, including a recommendation that the incumbent be suspended from office ;or
 - (d) may determine that no action be taken.

(4) A copy of the determination shall be signed by the members of the Board present and by the Registrar and shall be kept in the Registry of the diocese.

(5) The Bishop shall be given a copy of the determination and is bound by it.

(6) If the determination of the Board is that the licence of the incumbent be suspended for a specified period, the incumbent is not entitled to the emoluments of the office of incumbent in respect of that period.

(7) If the Board determines that the appointment of the incumbent be terminated, the incumbent may resign the incumbency of the parish within 3 weeks, but if the incumbent does not do so, the Bishop shall terminate the appointment.

PART 5- ASSISTANT MINISTERS

Resignation of assistant minister

21. An assistant minister may resign an appointment by giving not less than 2 months' notice in writing to the Bishop, or such shorter period as the Bishop approves, and, if appointed to a parish, to the incumbent of the parish.

Termination of appointment of assistant minister

22. (1) The Bishop may terminate the appointment of an assistant minister for any cause the Bishop considers good and reasonable by giving not less than 2 months' notice in writing to the minister, or with the consent of the minister, a shorter period of notice.

(2) The Bishop must not terminate an appointment under this section unless he has given the minister an opportunity to be heard.

(3) Nothing in this section affects the right of the Bishop to terminate an appointment in accordance with the terms of the appointment.

PART 6- GENERAL
(Amended by Act No. 347/04)

Retirement

23. Except as provided in sections 14A and 23A, a minister, on attaining the age of 70 years, if licensed, ceases to be the holder of a full licence and ceases to be eligible to be given a full licence.

Inserted by Act 355/2007 and amended by Act 390/2019

Grant of full licence to a priest who is not an incumbent and has attained 70 years

23A. (1) The Bishop may grant a full licence to a priest, who is not an incumbent, and has attained the age of 70, but not the age of 75, for a period of not more than 12 months if –

- a) within the previous 6 months, the priest has undergone a ministerial review in a form approved by the Bishop; and
- b) the Clergy Appointments Advisory Board recommends the grant of a full licence to the priest.

(2) A full licence granted under this section has effect for the term for which it is granted unless –

- a) The holder resigns or attains the age of 75; or
- b) The Bishop withdraws the licence.

Inserted by Act 390/2019

Recreation leave and temporary absence

24. (1) The incumbent of a parish and an assistant minister in a parish is entitled to recreation leave at the rate of 28 days, including 4 Sundays, in each year of service in the parish.

Inserted by Act 330/2000

(1A) For the purposes of sub-section (1), "**year**" means a year beginning on the date of induction, commissioning or licensing in the parish".

Inserted by Act 330/2000

(2) An assistant minister shall take the leave at such time as is agreed with the incumbent.

(3) An incumbent or assistant minister in a parish shall not -

- (a) be absent from the parish or ministry for more than 72 hours without first advising the relevant Archdeacon and an officer of the parish; and
- (b) be absent from the parish for more than 28 consecutive days without also first obtaining the approval of the Bishop.

(4) Recreation leave must be taken in the year in which it accrues or in the next succeeding year, unless the Bishop otherwise approves.

(5) Recreation leave accrued during an appointment to a parish must be taken before the end of that appointment.

Permission to officiate

25. A member of the clergy, other than the Bishop or the incumbent, shall not perform any clerical office in a parish without—

- a) if the member of the clergy holds a licence or authority from the Bishop, the consent of the incumbent or, if there is a vacancy in the incumbency or the incumbent is absent or suspended from office, the Bishop;
- b) in any other case, the consent of the Bishop and (unless there is a vacancy in the incumbency or the incumbent is absent or suspended from office), the incumbent.

(Amended by Act 369/11)

Rector

26. The title of a priest licensed to a parish as incumbent shall be rector.

PART 7- TRANSITIONAL

Transitional - Clergy Appointments Advisory Board

27. The members of the Clergy Appointments Advisory Board holding office immediately before the commencement of this Act continue to hold office until the appointment of members under this Act.

Transitional - Board of Reference

28. The members of the Board of Reference holding office immediately before the commencement of this Act continue to hold office until the appointment of members under this Act.

Part 6 of The Parish Administration Act 1972 to apply to things unfinished

29. (1) Despite the enactment of this Act, Part 6 of **The Parish Administration Act 1972** continues to apply to anything begun but not completed under that Part before the commencement of this Act.

(2) Despite anything to the contrary in this or any other Act -

- (a) the term of office of a priest appointed as incumbent within the period of 3 years before the commencement of this section is 10 years from the appointment; and

- (b) the term of office of a priest appointed as incumbent more than 3 years before the commencement of this section is the term for which the priest was appointed, as extended before that commencement; and
- (c) the term of office of an incumbent to whom paragraph (a) or (b) applies may, with the consent of the incumbent and after consultation with the parish council and the Clergy Appointments Advisory Board, be extended, or further extended, by the Bishop for a period, or successive periods, not exceeding 3 years.

"Transitional provision for Appointments (Amendment) Act 2000

30. A person who is an incumbent or assistant minister in a parish on 1 January 2001 and whose anniversary of induction, commissioning or licensing in the parish occurs after that date continues to be entitled to recreation leave accrued in accordance with section 24 of this Act as in force immediately before that date until that next anniversary".

Inserted by Act 330/2000

Transitional provision for Appointments (Retirement Age) Act 2007

31. The Principal Act, as amended by this Act, applies to a priest and to a minister whether appointed as incumbent or granted a full licence before, on or after the commencement of the **Appointments (Retirement Age) Act 2007** but does not affect the term for which a priest who attained the age of 65 before that commencement was appointed.

Inserted by Act 355/2007

Appointments Act 1994
Act No 290/1994
Assented to 14th May 1994

Appointments (Amendment) Act 2000
Act No 330/2000
Assented to 20th May 2000

