

Clergy Service Ordinance 2021

A Measure for an Ordinance to provide for the appointment of the Priest in Charge and conditions generally for Clergy serving in the Diocese.

WHEREAS it is expedient to provide for the appointment of the Priest in Charge and generally the conditions for Clergy serving in the Diocese

NOW THE SYNOD HEREBY DETERMINES-

Title

1.1 This ordinance may be cited as the “Clergy Service Ordinance 2021”

Application

1.2 This ordinance applies to all Clergy licensed and serving in the Diocese.

Structure

1.3 Parts:

Part 1:	Appointment of Priest in Charge
Part 2:	Licenses
Part 3:	Membership of Synod
Part 4:	Professional Development and Safe Ministry
Part 5:	Conditions of Service
Part 6:	Celebrations of Marriages
Part 7:	Superannuation

Definitions

1.4 In this Ordinance wherever the context so permits:

“The Anglican Church of Australia” means The Anglican Church of Australia constituted by the Constitution referred to in The Anglican Church of Australia Constitution Act, 1961-1980 of the State of South Australia by whatever name such Church shall for the time being be known.

“Clerk in Holy Orders” means in this ordinance a person who is ordained a priest or consecrated a bishop in the Anglican Church of Australia or any Church in communion therewith.

"Communicant" means a member of the Church who takes Holy Communion at least three times in the year.

“Constitution” means the Constitution of the Diocese of the Murray of The Anglican Church of Australia.

“In writing” includes any electronic communication capable of being printed.

“Licence” means a licence under the seal of the Bishop and “licensed” has a corresponding meaning.

“Ordinance” means and includes any ordinance or legislative enactment of the Synod passed in accordance with the provisions of the Constitution.

“Priest in Charge” means the Clerk in Holy Orders for the time being holding the licence of the Bishop for the cure of souls in a Parish.

“Parish” means a Parish recognised by the Synod in accordance with the provisions of the Constitution of the Diocese and any ordinance made thereunder.

A “Stapled Super Fund” means an existing superannuation account which is linked, or 'stapled' to an individual person, so it follows them as they change jobs.

"Superannuation Payment" means a payment to an approved fund under the Superannuation Guarantee (Administration) Act 1992 Cth.

"The Synod" means The Synod of the Diocese of The Murray of The Anglican Church of Australia Incorporated.

"WWCC" means a Working with Children Check as required by the State of South Australia.

"Complying fund" means a superannuation fund which is an approved superannuation fund under the provisions of the Superannuation Guarantee (Administration) Act 1992 Cth and any Regulations made thereunder and is a superannuation fund which qualified for concessional tax treatment as a "complying superannuation fund" for the purposes of the Income Tax Assessment Act 1936 Cth as amended.

"Part-time Clergy" means a member of Clergy, other than retired Clergy, who in respect of their duties as a member of Clergy and, with the approval of the Bishop and Diocesan Council, receives a stipend less than the applicable minimum stipend.

Part 1: Appointment of The Priest in Charge

Nomination Committee

- 2.1 When a vacancy occurs in the Office of Priest in Charge in any Parish, a Nomination Committee in accordance with Section 2.2 shall, subject to Section 8.1, nominate and present to the Bishop a suitable person being a Clerk in Holy Orders to be licensed to the Parish.
- 2.2 The Nomination Committee shall consist of:
 - (a) The Bishop.
 - (b) The Vicar General.
 - (c) The Archdeacon.
 - (d) One member of Synod appointed by the Bishop to be known as the Bishop's Diocesan Nominator.
 - (e) One Priest elected by the House of Clergy to be known as the Clerical Diocesan Nominator.
 - (f) One Lay Member of Synod elected by the House of Laity to be known as the Lay Diocesan Nominator.
 - (g) Six communicant members of the Parish to be elected when required, of which three must currently hold the office of Churchwarden.

Procedure upon Vacancy

3. When a vacancy in the office of Priest in Charge shall occur or when the Bishop shall receive notice that such a vacancy will occur:
 - 3.1 The provisions of Section 16.2 are triggered,
 - 3.2 The Parish Council and Churchwardens shall furnish to the Bishop in writing such financial and other information regarding the Parish as the Bishop may require.
 - 3.3 The Bishop or Vicar General shall call a Special Meeting of the Parish to elect the members of the Nomination Committee under Section 2.2 (g).

Nomination Meetings

4. Upon completion of the whole of ministry review pursuant to Section 16.2 and when it is appropriate that a Priest in Charge be appointed the Vicar General shall convene a meeting of the Nomination Committee by giving not less than fourteen nor more than thirty days' notice in writing to all those eligible for membership of the Committee pursuant to Section 2.2.

Chairman

5. At all meetings of the Nomination Committee the Vicar General shall preside.

Quorum

6. The proceedings of the Nomination Committee shall not be invalidated by reason of the absence or unwillingness to act of any of its members. One half of the members of the Nomination Committee shall constitute a quorum provided that either the Bishop or the Vicar General is also present.

Nomination

- 7.1 The nomination committee may nominate a Clerk in Holy Orders to the Bishop provided a minimum of seven votes in favour of that person from the committee is obtained.
- 7.2 The nomination and presentation of a priest to be licensed to the Parish shall be in the form set out in Schedule A of this Ordinance. The Bishop may accept and licence the nominee or may decline to accept any nomination and shall not be required to disclose any reasons for declining.

Appointment by the Bishop

8. Notwithstanding anything contained elsewhere the Bishop shall have the power to:
 - 8.1 Appoint a Priest in Charge every third occurrence of a vacancy in the position of Priest in Charge of a Parish after consulting with the Parish Council.
 - 8.2 Appoint a Priest in Charge if within six calendar months of the date of the notice given by the Vicar General pursuant to Section 4 hereof the Nomination Committee has not nominated and presented to the Bishop a duly qualified person to be licensed to the Parish.

Locum Tenens

9. The Bishop or the Vicar General shall be at liberty to appoint some person or persons holding the licence of the Bishop to officiate in a Parish during any vacancy in the office of Priest in Charge and the Synod shall admit such person or persons to officiate accordingly. The Parish Council shall be responsible for the payment of the travelling expenses and the appropriate salary of the person or persons so appointed in accordance with the scale (if any) determined under this or any other Ordinance. The appointment shall be for a period of up to 12 months with monthly renewals after that.

Part 2: Licences

Conditions

10. Subject to the provisions of this Ordinance and any Ordinance relating to Clergy discipline, the licence granted to any Clergy by the Bishop shall be upon such terms and conditions as the Bishop may from time to time determine.

Qualifications

11. Before being granted a licence an applicant shall furnish to the Bishop or his nominee such information, letters, testimonial and evidence of ordination as the Bishop shall require and shall make an oath of canonical obedience to the Bishop in such form as the Bishop shall from time to time determine provided however that a member of Clergy shall not be required to repeat such oath so long as the Clergy continues to exercise ministry within the Diocese.

Permission to Officiate

- 12.1 The Bishop may issue to any Clerk in Holy Orders not licensed within the Diocese permission to officiate upon such terms and conditions as the Bishop may from time to time determine and as shall be specified in such permission and such permission may be revoked or extended at the discretion of the Bishop.
- 12.2 Such permission shall not give a right to officiate in any Parish without prior approval of the Priest in Charge for the time being, or the Vicar General in a vacancy, nor shall such permission confer upon the holder the right to attend or vote at meetings of the Synod.

Bishop's Declaration of Vacancy of Office

- 13.1 If, in the opinion of the Bishop, the Priest in Charge (except in the case of sickness or injury) has absented himself from his cure for more than four weeks in any one calendar year over and above any entitlement to annual, personal or long service leave without having first obtained the consent of the Bishop, the Bishop may notify the Priest in Charge by notice in writing posted to the last known address of the Priest in Charge that he intends to declare that a vacancy in the office of Priest in Charge exists. Subject to the provisions of Section 13.2 the Bishop may at the expiration of four weeks from the date of such notice declare that a vacancy in the office of Priest in Charge exists and thereupon a vacancy within the meaning of Section 2.1 hereof shall be deemed to exist.
- 13.2 Within four weeks of the date of the notice referred to in Section 13.1 the Priest in Charge may appeal to the Diocesan Tribunal constituted under The Ecclesiastical Offences Ordinance 2001 or any amendment thereof against the decision to declare a vacancy in the office of Priest in Charge. If the Priest in Charge shall prove to the satisfaction of the Tribunal that he was not absent from his cure as aforesaid then the Tribunal shall declare that no vacancy in the office of Priest in Charge exists. If the Priest in Charge shall not prove to the satisfaction of the Tribunal that he was not absent as aforesaid the Tribunal shall declare that a vacancy in the office of Priest in Charge exists and thereupon a vacancy within the meaning of Section 2.1 hereof shall be deemed to exist.

Revocation of Licence

- 14.1 Notwithstanding the provisions of any Ordinance of the Diocese or any other principle of canon law express or implied or the terms and conditions of the licence granted to any Clergy by the Bishop such licence may be revoked at the discretion of the Bishop and with the consent of Diocesan Council if in the opinion of the Bishop the member of Clergy has for a period of 180 consecutive days been unable by reason of infirmity of mind or body to discharge adequately the duties attaching to the office.
- 14.2 When exercising his discretion pursuant to Section 14.1 hereof the Bishop shall consider the adequacy of any proceeds of insurance, compensation, superannuation or other benefits or emoluments which will be payable to the member of Clergy in the event of the revocation of their licence.

Part 3: Membership of Synod

Membership of Synod

15. Pursuant to the provisions of Section 6(d) of the Constitution the following Clergy shall be entitled to a seat at Synod:
- 15.1 All Clergy licensed by the Bishop to exercise the office of Priest in Charge of a Parish or Provisional Parish, provided that person has signed the engagement and undertaking in the form set out in Schedule B of this Ordinance and the Synod shall give effect to every sentence of suspension or withdrawal of licence by the Bishop which may at any time be pronounced in accordance with the terms of the licence.
- 15.2 All Clergy licensed by the Bishop to assist in a Parish or Provisional Parish, provided that person has signed the engagement and undertaking in the form set out in Schedule B of this Ordinance and the Synod shall give effect to every sentence of suspension or withdrawal of licence by the Bishop which may at any time be pronounced in accordance with the terms of the licence.
- 15.3 A Locum Tenens in a Vacancy appointed by the Bishop for the duration of appointment as Locum Tenens in a Parish or Provisional Parish.
- 15.4 Other Clergy subject to the terms and conditions of the license issued by the Bishop.

Part 4: Professional Development and Safe Ministry

Professional Development

16.1 All stipended Clergy must:

- (a) Present to the Bishop a professional development plan in such a format as required by the Bishop.
- (b) Have a Ministry Review every 2 years, to be conducted at an agreed time between the Bishop, the member of Clergy and Parish Council.
- (c) Abide by any Provincial or Diocesan Policy on Clergy supervision and have a pastoral supervisor and commit to 10 sessions per year. This is to be funded 50% by the member of Clergy and 50% by the Synod.

16.2 On a member of Clergy leaving a Parish, a whole of Ministry Review is to be conducted with the Bishop, exiting Clergy, Churchwardens and Parish Council.

Safe Ministry

17.1 All Clergy shall fulfil all Safe Ministry requirements in accordance with Section 17.3 within 3 months of appointment or receiving a Permission to Officiate license and commit to ongoing requirements.

17.2 Should a member of Clergy be up to date with the Safe Ministry requirements of the Dioceses in the Province of South Australia, the requirements of Section 17.1 shall be satisfied when as soon as practicable after the time of appointment proof is provided to the Registrar.

17.3 Safe Ministry Requirements include:

- (a) Working With Children Check
- (b) National Police Check
- (c) Safe Ministry Training
- (d) Child Safe Environments.
- (e) Safe Ministry Questionnaire.

Diocesan Council may amend this Section in line with Government or Provincial and National Church requirements as needed.

17.4 All clearances will be renewed every three years unless otherwise directed.

Safe Ministry Prohibition

18.1 The Bishop must not license a member of Clergy to exercise any Anglican ministry in the Diocese if the Bishop knows or has reasonable cause to believe that the member of Clergy is not the holder of a WWCC clearance or does not have a Pastoral Supervisor if required or a satisfactory National Police Check.

Safe Ministry Suspension and Revocation of Licence

19.1 The Bishop must suspend the licence of a member of Clergy if the Bishop:

- (a) is reasonably satisfied that the ministry permitted by the licence constitutes child-related work, and
- (b) knows or has reasonable cause to believe that the member of Clergy is not the holder of a WWCC clearance, or
- (c) becomes aware that the member of Clergy no longer can obtain a satisfactory National Police Check, or
- (d) knows or has reasonable cause to believe that the member of Clergy does not have a Pastoral Supervisor.

19.2 Any suspension of a licence under Section 19.1 must be notified as soon as practicable to the member of Clergy in writing and must specify the date on which the suspension takes effect.

- 19.3 Any suspension of a licence under Section 19.1 is for a period which expires on the earlier of:
- (a) 3 months from the date on which the suspension takes effect, and
 - (b) The date on which the Bishop verifies that the member of Clergy holds a WWCC clearance and a satisfactory National Police Check or has a Pastoral Supervisor.
- 19.4 If a period of suspension expires under Section 19.3 (a), the Bishop must revoke the licence.
- 19.5 Before suspending and before revoking a licence under Section 19.1 or 19.4, the Bishop must give the member of Clergy an opportunity to show cause why the licence should not be suspended or revoked.
- 19.6 Any member of Clergy found to be exercising pastoral ministry whilst under suspension must be referred to the Professional Standards Director.

Code of Conduct

- 20.1 All Clergy must follow the national code for personal behaviour and the practice of pastoral ministry as outlined in the General Synod document "Faithfulness in Service" or any document that succeeds it.
- 20.2 If any member of Clergy becomes aware of any allegation of breach of a standard of "Faithfulness in Service" or any behaviour not befitting a member of Clergy, they must report those allegations immediately to the Bishop and the Director of Professional Standards.
- 20.3 If the Bishop and the Director of Professional Standards agree that a serious breach of a standard of "Faithfulness in Service" has likely occurred and with the consent of Diocesan Council, the licence of any Clergy may be revoked or suspended at the discretion of the Bishop notwithstanding the provisions of any Ordinance of the Diocese or any other principle of canon law express or implied or the terms and conditions of the licence granted to the member of Clergy by the Bishop.

Part 5: Conditions of Service

Stipends and Allowances

21. The Diocesan Council shall from time to time fix the minimum stipend, superannuation contribution rate, travelling and other allowances to be paid to Clergy.

Clergy Accommodation

- 22.1. The Synod shall permit any Clergy licensed to a Parish to assist a Priest in Charge to occupy either Parish Trust Property (if any) or accommodation sourced by Synod from outside subject to such terms that might be imposed at the time.
- 22.2. Any member of the Clergy may not rent the accommodation or sublet any room whilst in occupation without the permission of the Bishop, Diocesan Council and Parish Council in writing.

Legal Status

23. The benefits provided by the Church to a member of Clergy are binding on the conscience of the member of Clergy and afford and are intended to create no legal rights whatsoever. The obligations to be performed by a member of Clergy are binding in conscience only and are not intended to afford legal rights and are not intended to be enforceable as contractual obligations. The obligations of a member of Clergy are contained in the Ordinal, any "code of conduct" adopted from time to time by Synod or the Diocesan Council and any terms of the Bishop's licence.

Annual, Personal, Retreat and Study Leave

- 24.1 A member of Clergy may take:
- (a) Annual leave for a period of 28 days including not more than four Sundays in any calendar year. This leave may be taken in two periods of 14 days.
 - (b) 10 days personal leave in any calendar year, in the case of sickness a doctor's certificate is required after 2 days.

- 24.2 In the first year of an appointment, the leave entitlement shall be pro-rata, calculated from the time of the licensing to the end of the calendar year.
- 24.3 Prior to taking up a new appointment within the Diocese, a member of Clergy shall take any annual leave owing within the current entitlement year unless this is impossible, or the Bishop agrees otherwise.
- 24.4 No leave may be accumulated or cashed out.
- 24.5 No Personal leave may be carried forward upon taking a new appointment within the Diocese.
- 24.6 In addition to the entitlements outlined in this section, a member of Clergy may take 4 days leave annually for study or attendance at a conference provided that:
- (a) The Bishop shall consent in writing to the proposed study leave or conference.
 - (b) The Parish Council be informed by the member of Clergy of the nature of the proposed study or conference.
 - (c) This entitlement does not accumulate.
- 24.7 The Bishop may at his discretion require stipendiary Clergy to attend a further conference and/or Retreat each year in addition to the entitlements outlined elsewhere in this section and that the cost shall be borne by the respective Parish.

Notice of Leave

- 25.1 A member of Clergy shall give a minimum of 14 days' notice before any proposed leave by lodging a Leave of Absence form with the Vicar General of an intention to take leave of absence for any leave under Section 24, apart from Section 24.7, and before taking such leave shall satisfy the Bishop that essential ministrations have been arranged during the period of absence including notifying the Registry and the Parish Council and local undertakers and hospitals.
- 25.2 In the case of Personal Leave, the Bishop or Vicar General may waive all or part of the notice period.
- 25.3 A member of Clergy assisting a Priest in Charge must coordinate their leave with the Priest in Charge.

Long Service Leave

26. Long Service Leave is subject to General Synod Long Service Leave Canon, however:
- 26.1 Long Service Leave should be taken within 36 months of becoming eligible, however Clergy should not take the leave within 12 months of being licensed to a Parish.
- 26.2 Clergy must give a minimum 90 days' notice in writing by lodging a Leave of Absence form with the Vicar General of the intention to take Long Service Leave and before taking such leave shall satisfy the Bishop that essential ministrations have been arranged during the period of his absence including notifying the Registry, the Parish Council and local undertakers and hospitals.

Absence without Leave

- 27.1 No member of Clergy shall be absent from their duties for a period exceeding 48 hours without consent from the Bishop or Vicar-General. In exigent circumstances, this consent may be obtained after returning to their duties and shall not be unreasonably withheld.

Insurance

- 28.1. The Synod may effect a policy or policies of insurance for Clergy licensed by the Bishop to minister in the Parishes of the Diocese in respect of:
- (a) Personal sickness or accident, and
 - (b) Salary continuance

- 28.2. Such policy or policies shall be effected with such insurance company or companies and in such amounts and upon such conditions as the Diocesan Council shall from time to time determine.
- 28.3. This does not apply to Clergy with a Permission to Officiate License or Clergy not eligible for such insurance.

Payment of Premiums

- 29.1 The proportion of the cost of the premiums for any policy of insurance effected under Section 28.1 applicable to any Parish pursuant to this Ordinance shall be paid on demand to the Synod by such Parish. The cost of the premiums for the Bishop and Vicar-General shall be a Synod expense.

Default in Payment

- 30.1 Should a Parish neglect or refuse to pay to the Synod within ten calendar months any sum due pursuant to Section 28 of this Ordinance the lay members of the Synod representing the Parish shall be excluded from sessions of the Synod until the full amount has been paid or until the Diocesan Council shall otherwise determine.

Part 6: Celebration of Marriages

Regulations

- 31.1 Subject to the provisions of the Marriage Act 1961 of the Commonwealth of Australia or any Act amending or superseding the same the Bishop may from time to time make such regulations as he deems necessary for the celebration of marriages.
- 31.2 With the approval of Synod, the Bishop may from time to time make such regulations as he deems necessary for the blessings (or not) of marriages or civil unions.

Location

- 31.3 No marriage shall be solemnised otherwise than in a licensed Church unless the permission of the Bishop be first had and obtained.

Part 7: Superannuation

Superannuation Contributions.

- 32.1 Synod shall contribute towards the superannuation of Clergy serving in the Diocese engaged in full or part-time ministry.
- 32.2 The rate payable shall not be less than the applicable Superannuation Guarantee Rate in force at the time and shall be set at the same time as the minimum stipend payable to such Clergy is fixed pursuant to Section 21.
- (a) For Clergy engaged in full-time ministry, the amount to be paid shall be calculated on the minimum stipend set in Section 21.
 - (b) For Clergy engaged in part-time ministry, the amount to be paid shall be calculated on the actual stipend paid.

Application

- 33.1 This Part only applies to full and part time Clergy licensed by the Bishop, being paid by Synod or the Parishes for the term of their appointment.
- 33.2 This does not apply to Clergy with a Permission to Officiate License.

Approved Funds

- 34.1 All Clergy, upon their first appointment to a position in the Diocese, must nominate a complying superannuation fund to the Registrar.
- 34.2 The default fund, where no nomination is supplied and no stapled super fund is found, shall be Australian Super or a Fund that replaces it as approved by Diocesan Council.
- 34.3 Any member of the Clergy may advise a change of fund to the Registrar by giving 30 days' notice of the change.

Superannuation Payments

- 35.1 Payments to Superannuation Funds shall be paid by the Synod not less frequently than quarterly or as required by the Superannuation Guarantee Administration Act 1992 Cth.
- 35.2 Notwithstanding the provisions of Section 32.1 of this Ordinance, with respect to each member of Clergy responsible for or assisting in the pastoral care of a Parish, the superannuation payable of that member of Clergy shall be borne by the Parish to which he has been licensed.
- 35.3 For the Vicar-General and Bishop, payments required by the Superannuation Guarantee Administration Act 1992 Cth shall be an expense of the Diocese.

Repeal

36. The Superannuation (Contributions) Ordinance 2001 is hereby repealed but such repeal shall not affect any act, deed or thing lawfully done under Superannuation (Contributions) Ordinance 2001 prior to the passing of this Ordinance.

**SCHEDULE A
(Section 7)**

Form of Nomination

To the Right Reverend by divine permission Lord Bishop of The Murray

We, the undersigned members of the Nomination Committee duly authorised by Ordinance of the Synod to select and nominate a Priest in Charge for the Parish of do hereby nominate and present the Reverend to be Priest in Charge of the said Parish and do pray that he may be forthwith licensed to be the Priest in Charge thereof.

Dated

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(Signatures)

**SCHEDULE B¹
(Section 15.1 & 15.2)**

I do hereby engage and undertake to surrender and yield up to The Synod of the Diocese of The Murray of The Anglican Church of Australia Incorporated on demand of the Bishop or of the said Synod possession of all the real and personal estate and effects which I may hold or be entitled to under Synod or by virtue of my office at the time if and when sentenced according to the Ordinances of the said Synod to deprivation or suspension and that I will in all other respects conform to and abide by the Constitution, Ordinances and other rules of the Diocese. And in order to facilitate the recovery of possession by the said Synod of the said real and personal estate I hereby admit and acknowledge myself to be tenant at will thereof to the said Synod.

I further commit to abide by all the Safe Ministry requirements as required.

I also commit that, upon leaving the Diocese of The Murray or a Parish in the Diocese, I will refrain from publicly commenting on events in a Parish or the Diocese.

Dated.....

..... (Signature) Witness

Name:

¹ Schedule B Amended 3/6/2022