
STATUTORY INSTRUMENTS

2009 No. 2108

The Ecclesiastical Offices (Terms of Service) Regulations 2009

PART III

RIGHT TO STIPEND AND PROVISION OF ACCOMMODATION

Entitlement to stipend

Entitlement to stipend of office holders

11.—(1) Subject to paragraph (3), an office holder who is occupying a full-time stipendiary post which is stated to be such in his or her terms of appointment shall be entitled to receive an annual stipend of an amount—

- (a) which is not less than the National Minimum Stipend, or
- (b) which, together with any income received by the office holder from other sources which is related to or derived from the duties of the office, is not less than the National Minimum Stipend.

(2) In sub-paragraph (1) above “National Minimum Stipend” means the amount specified from time to time by the Archbishops’ Council, in exercise of its functions as the Central Stipends Authority, as the National Minimum Stipend, and the circumstances in which income is treated, for the purposes of paragraph (1)(b) above, as to be taken into account for the purpose of calculating an office holder’s entitlement, shall be specified from time to time by the Council in the exercise of those functions.

(3) An office holder who is occupying a part-time post shall be entitled to such stipend as may be specified in the statement of particulars of office given under regulation 3 above.

(4) Paragraphs (1) and (3) above do not apply to an office holder who is serving a sentence of imprisonment following a conviction for a criminal offence.

(5) Any directions given by a diocesan bishop under section 5(2) of the Diocesan Stipends Funds Measure 1953(1) with respect to providing or augmenting the stipends of the office holders mentioned in that section shall be consistent with the provisions of this regulation.

Provision of accommodation

Duties of relevant housing provider

12.—(1) The relevant housing provider which provides a house of residence or other accommodation under section 4 or 5 of the Measure shall be under a duty—

- (a) to keep the property in repair;

- (b) to arrange for a qualified surveyor (within the meaning of section 7(6)(b) of the Measure) to inspect the property at least every five years and, in the case of a new building, as soon as possible after the building is provided, and for a report to be submitted to the housing provider describing the state and condition of the property, including the state and condition of the interior, and the grounds and of any contents of the property provided by the housing provider;
 - (c) to send a copy of the surveyor’s report to the office holder and, after consulting the office holder, to carry out within a reasonable time any repairs recommended in the report which appear to the housing provider to be appropriate;
 - (d) to pay the Council Tax and such other recurring charges as may be specified in the statement of particulars of office given under regulation 3 above (or in any statement of changes given under regulation 6 above);
 - (e) to insure the property against all such risks as are included in the usual form of house owner’s policy relating to buildings.
- (2) In this regulation “repairs” means such works of repair and replacement as are needed—
- (a) to keep in repair the structure and exterior of the buildings of the property, including doors, windows, drains, gutters and external pipes;
 - (b) to keep in repair all walls, fences, gates, drives and drains of the property, other than those which some person other than the office holder is wholly liable to repair; and
 - (c) to keep in repair and proper working order—
 - (i) the installations in the property for the supply of water, gas and electricity, and for sanitation, including basins, sinks, baths and sanitary conveniences,
 - (ii) the installations in the property for space heating or heating water, and
 - (iii) any fixtures, fittings and appliances in the property (other than those mentioned in the preceding sub-paragraphs) provided by the relevant housing provider,
- including works of interior decoration necessitated in consequence of such works as aforesaid.
- (3) In determining for the purposes of this regulation the standard of repair appropriate to any building regard shall be had to the age, character and prospective life of the building and, in particular, in the case of a building included in a list under section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990(2) or a building in a conservation area, to the special architectural or historic interest of the building.
- (4) In this regulation and regulations 13, 14 and 15 below “property” includes any land or other buildings which forms or form part of or is or are ancillary to the house of residence or other accommodation.

Rights of entry

13. The relevant housing provider or its officers or agents may enter any property which is provided as a house of residence or other accommodation under section 4 or 5 of the Measure on first giving, except in an emergency, reasonable notice to the office holder, to inspect or carry out repairs to the property or to inspect, repair, replace or remove any contents of the property which have been provided by the housing provider or for such other reasonable purpose as is consistent with the powers and obligations of the provider.

Duties of office holder

14.—(1) An office holder who is in occupation of a house of residence or other accommodation provided under section 4 or 5 of the Measure shall be under a duty—

- (a) to permit the relevant housing provider or its officers or agents to enter the property in exercise of the provider's rights under regulation 13 above;
- (b) to use all reasonable endeavours to keep the property and any contents of the property provided by the relevant housing provider, clean and free from deterioration, with the exception of fair wear and tear, and to keep any garden or other grounds belonging to the property in a reasonable state of upkeep;
- (c) to notify the relevant housing provider of any works of repair that may from time to time be needed to the property as soon as reasonably practicable after the office holder becomes aware of them;
- (d) if required to do so by the relevant housing provider, to the extent that it is not recoverable under any insurance policy, to pay the whole or part of the reasonable cost of any repairs to the property which a report of a qualified surveyor as mentioned in regulation 12(1)(b) above authorised by the relevant housing provider specifies to be necessary as the result of damage caused or aggravated by the deliberate act of the office holder or a member of the office holder's household residing with him or her or by a breach of the office holder's obligations under this regulation;
- (e) not to use the property except as a private residence for the office holder and his or her household and for such other purposes as may be agreed by the relevant housing provider, which agreement shall not be unreasonably withheld;
- (f) not to make any repairs, alterations or additions to the property without the consent of the relevant housing provider;
- (g) where the property is held on a lease, to observe any term, condition or covenant binding the tenant under the lease and, in any case, to indemnify the relevant housing provider in respect of any breach by the office holder or by any member of the office holder's household living in the property of any term, condition or covenant binding on the occupier; and
- (h) to vacate the property within the period of one month from the date on which the office holder ceases to hold the office or on which he or she takes up a new office, whichever is sooner or within such longer period as the relevant housing provider may allow and to leave the property clean and tidy and clear of all personal possessions belonging to the office holder or any members of his or her household residing in the property.

(2) If an office holder dies whilst occupying the property any member of his or her household living in the property at that time may remain in occupation for the period of three months from the date of the office holder's death or such longer period as the relevant housing provider may allow and any such person shall, for the duration of his or her occupation, be subject to the same obligations, so far as relevant, under this regulation as is the office holder.

(3) The office holder shall keep the relevant housing provider informed of matters arising from any notice given to him or her by a Government department, local or other public authority, public utility undertaker or, in the case of property held on a lease or tenancy, the landlord of the property; and the relevant housing provider shall, unless it agrees otherwise with the office holder, advise on or undertake negotiations in respect of any such matters.

Disputes and variation of terms

15.—(1) If there is any dispute about the performance of the respective obligations of the relevant housing provider and the office holder under section 4, 5 or 6 or regulations 12 to 14 above which

cannot be resolved by the grievance procedures, it shall be referred for arbitration by a single arbiter appointed by agreement between the relevant housing provider and the office holder or, failing agreement, by the President of the Royal Institution of Chartered Surveyors and the decision of any arbiter so appointed shall be final.

(2) The terms of occupation of the property by the office holder may, subject to regulations 12 to 14 above, be varied by agreement between the relevant housing provider and the office holder and, where appropriate, the statement of particulars of office shall be amended to reflect any such variation.

Regulated transactions

Rights to object to regulated transactions

16.—(1) Where under section 7 of the Measure a relevant housing provider has served notice on an office holder or other person or body of a regulated transaction any person or body on whom or which notice is served may object to the transaction by giving notice to the relevant housing provider, stating the grounds of the objection, within the period of twenty eight days beginning on the next working day after the date of the relevant housing provider's notice.

(2) Subject to paragraph (3) below, within the period of five days of the receipt of any notice of objection given under paragraph (1) above, the relevant housing provider shall send it for consideration—

- (a) where the provider is the Commissioners or where the consent of the Commissioners is required to the transaction, to the Archbishops' Council,
- (b) in any other case, to the Commissioners.

(3) If the relevant housing provider considers that the objection is well founded, it need not refer it under paragraph (2) above and shall—

- (a) notify the person or body which served the notice accordingly; and
- (b) either discontinue any action with respect to the regulated transaction or consider whether to proceed with a different regulated transaction.

(4) The Archbishops' Council or the Commissioners, as the case may be, shall, after considering the grounds of objection and all relevant circumstances, direct that the transaction shall proceed if the relevant housing provider satisfies it or them that any objection should not be upheld and, in any other case, direct that the transaction shall not proceed.

(5) Without prejudice to their powers to appoint committees, the Archbishops' Council may delegate the consideration of any objections to a committee appointed by the Council for the purposes of this regulation and the Commissioners may delegate the consideration of objections to any committee of the Commissioners established by or appointed under the Church Commissioners Measure 1947(3).

(6) If the relevant housing provider is satisfied that the issue of any notice under section 9 of the Measure should be dispensed with owing to the urgency of a proposed regulated transaction, or if the Archbishops' Council or the Commissioners are satisfied that, owing to the urgency of the transaction, objections should not be considered, the Council or the Commissioners, as the case may be, may direct that the transaction shall proceed without issuing the notice or consideration of any objections, as the case may be, provided that every person or body on whom notice of the transaction has been served (or is required to be served, as the case may be) agrees.

(7) Paragraph (5) above applies to the consideration of the matters referred to in paragraph (6) above as it applies to the consideration of objections.

Service of notices

Service of notices

17.—(1) Any notice required or authorised by the Measure or these regulations to be served on, sent or given to a person may be served, sent or given by delivering it to that person, or by leaving it at that person's proper address, or by sending it by post or by facsimile transmission or electronic mail.

(2) The proper address for the purpose of paragraph (1) above shall be that person's last known address, except that—

- (a) in the case of a secretary or clerk of a corporation, it shall be the registered or principal office of the corporation;
- (b) in the case of a parochial church council, it shall be the address of the secretary or acting secretary or, in the absence of such a person, the address of such other person as may be deemed by the person serving the notice to be appropriate.