

Assistant Ministers Ordinance 2017

(Reprinted under the Interpretation Ordinance 1985.)

The Assistant Ministers Ordinance 2017 as amended by the Assistant Ministers Ordinance 2017 Amendment Ordinance 2018 and the Assistant Ministers Ordinance 2017 Amendment Ordinance 2019.

Table of Provisions

Clause	
1	..... Name
2	..... Definition of terms
3	..... Term of Appointment
3A	..... Application for review
3B	..... Review Panel
3C	..... Process review
3D	..... Outcomes
3E	..... Miscellaneous
4	..... Lodgement of material with the Registrar
5	..... Undertaking by rector
6	..... Vacancy in office of rector and appointment of new rector
7	..... Guidelines
8	..... Commencement, repeal and transitional

XXXXXXXXXXXX

Long Title

An Ordinance to provide terms for the appointment of deacons and presbyters to assist rectors of parishes.

Preamble

Whereas it is expedient to make further provision for the terms of appointment of deacons and presbyters appointed to assist rectors of parishes.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

1. Name

This Ordinance is the Assistant Ministers Ordinance 2017.

2. Definition of terms

(1) In this Ordinance -

“assistant minister” means a deacon or presbyter licensed by the Archbishop to the office of assistant minister in a parish and does not include a senior assistant minister;

“Review Panel” or “Panel” means the body of that name constituted under clause 3B;

“senior assistant minister” means:

(a) a deacon or presbyter who has served:

(i) as an assistant minister in the Diocese; or

(ii) in an equivalent office in another Diocese,

for a period of at least 4 years or periods, which in aggregate total at least 4 years, and who is licensed by the Archbishop, at the request of the rector and the parish council of the parish, to the office of senior assistant minister in the parish; or

(b) a presbyter who has served:

- (i) as a rector in the Diocese; or
 - (ii) in an equivalent office in another Diocese,
- who is licensed by the Archbishop, at the request of the rector and the parish council of the parish, to the office of senior assistant minister in the parish.

“Synod Pool” means the group of twelve clergy, at least nine of whom are to be incumbents (elected by the clerical members of Synod), and twelve laypersons (elected by the lay members of Synod), as provided for in clause 3 of the *Parish Disputes Ordinance 1999*.

- (2) Any terms appearing in the Schedule to the Interpretation Ordinance 1985 are defined by reference to the meaning set out in that Ordinance.

3. Term of Appointment

- (1) An assistant minister or a senior assistant minister holds office subject to:
- (a) the terms of his or her licence; and
 - (b) where the assistant minister or the senior assistant minister is paid a stipend or is entitled to any other benefit or allowance, written notice of the termination of the appointment and the payment of such stipend and provision of such entitlement given by the rector with the concurrence of the wardens of the principal or only church of the parish in which the assistant minister or senior assistant minister holds office.
- (2) For the purposes of clause 3(1)(b), notice is due notice if:
- (a) in the case of an assistant minister, the period of notice is at least 3 months; and
 - (b) in the case of a senior assistant minister, the period of notice is the longest of:
 - (i) 3 months; or
 - (ii) the period of notice, to a maximum period of 9 months, calculated at the rate of one month’s notice for each year (or part thereof) of continuous service as assistant minister or senior assistant minister, or both, in that parish; or
 - (iii) such other period of notice, if any, which, at the time the senior assistant minister was licensed as senior assistant minister, was agreed for the purposes of this clause between the senior assistant minister and -
 - (A) the Archbishop; and
 - (B) the rector of the parish; and
 - (C) the parish council.
- (2A) Notwithstanding subclause (2), the assistant minister or senior assistant minister may choose to waive some of the period of notice and leave their office earlier, provided that they give written notice to the rector and wardens, and the rector and wardens agree to the earlier date in writing.
- (3) Notice must not be given under clause 3(1)(b), unless:
- (a) the regional bishop of the region within which the parish is situated has been notified of the proposal to issue the notice; and
 - (b) the notice is proposed to be given due to -
 - (i) unsatisfactory conduct, performance or capacity on the part of the assistant minister or senior assistant minister;
 - (ii) the parish council determining that the office held by the assistant minister or senior assistant minister will no longer be funded; or
 - (iii) other reasons determined by the rector having regard to the ministry needs of the parish; and
 - (c) the assistant minister or senior assistant minister has been given a written statement containing –
 - (i) particulars of the grounds or reasons under clause 3(3)(b), and
 - (ii) in the case of unsatisfactory conduct, performance or capacity that is not serious misconduct: a warning that a notice may be issued under clause 3(1)(b) if the relevant conduct is not addressed; and
 - (d) the assistant minister or senior assistant minister has been given a reasonable period in which to provide a written response to the statement of particulars; and
 - (e) the rector and wardens have considered any response given by or on behalf of the assistant minister or senior assistant minister within the period; and

- (f) the rector and wardens have given due regard to any guidelines issued by the Archbishop-in-Council under clause 9.

3A. Application for review

- (1) After receiving a notice under clause 3(1)(b), an assistant minister or senior assistant minister may apply to the Review Panel for a review of the termination for compliance with the procedural requirements of the Ordinance.
- (2) The application must be made:
 - (a) within 6 months after receiving the notice; or
 - (b) within such further period as the Panel allows in exceptional circumstances, having regard to any reasons for the delay and any other matter as the Panel sees fit.
- (3) The application must be made in the approved form prescribed by the Standing Committee from time to time.
- (4) The Panel must, as soon as reasonably practicable, provide a copy of the application to the rector and wardens.
- (5) The rector and/or wardens may provide a response to the application:
 - (a) no more than 3 weeks after receipt of the application; or
 - (b) within such further period as the Panel allows in exceptional circumstances, having regard to any reasons for the delay and any other matter as a Panel sees fit.
- (6) The response must be made in the approved form prescribed by the Standing Committee from time to time.

3B. Review Panel

- (1) There shall be a Review Panel comprising three persons constituted and appointed in accordance with this clause 3B.
- (2) The function of the Panel is to enquire into and determine applications made under clause 3A regarding compliance by the rector and/or wardens with the procedural requirements of this Ordinance for the termination of an assistant minister or senior assistant minister.
- (3) The Panel cannot consider the substantive reasons for the termination.
- (4) Subject to this Ordinance and the relevant rules, the Panel may exercise any powers necessary for its function in clause 3B(2).
- (5) The members of the Panel in relation to a particular application shall be appointed from the Synod Pool, with one person nominated by each of the regional bishop, the applicant and the rector (after he has consulted the wardens).
- (6) The member of the Panel nominated by the regional bishop is the convenor of the meetings of the Panel.
- (7) If –
 - (a) the rector fails to nominate a member from the Synod Pool within 7 days of being asked by the regional bishop to do so (or such further time period allowed by the regional bishop); or
 - (b) the applicant fails to nominate a member from the Synod Pool within 14 days of being asked by the regional bishop to do so (or such further time period allowed by the regional bishop),then the person's right of nomination shall lapse and the regional bishop is to appoint a member or members from the Synod Pool to achieve the quorum of three persons.
- (8) A parishioner of a church in the parish to which the application relates is not eligible to be a member of the Panel.

3C. Process review

- (1) In undertaking its function pursuant to clause 3B(2), the Review Panel –
 - (a) must, to the extent possible, consider the application on the papers;
 - (b) may convene meetings with any or all parties, and invite witnesses;
 - (c) is not required to keep minutes, but may keep a record of meetings held and outcomes of those meetings;

- (d) has a quorum comprising three members of the Synod Pool, one of whom is the convenor;
 - (e) may make orders as to the conduct of any meeting as it deems appropriate;
 - (f) makes its decisions by simple majority;
 - (g) must observe the rules of procedural fairness;
 - (h) may seek such advice as it sees fit and may invite any persons to meet with the Panel; and
 - (i) may use parish property, other than the rectory, for meetings as required.
- (2) Once it has completed its review of the application, the Panel shall produce a written report which sets out –
- (a) its view regarding compliance by the rector and wardens with the procedural requirements of the Ordinance for the termination of the appointment of the applicant, including any particulars of the nature and extent of any non-compliance;
 - (b) any non-binding recommendations it has regarding the application.
- (3) The report referred to in clause 3C(2) must be provided to the applicant, the rector and wardens of the relevant parish, the regional bishop, and the Archbishop.

3D. Outcomes

- (1) The Review Panel may make any or all of the following recommendations –
- (a) to the rector, that he take certain actions;
 - (b) to any member of the parish, including the wardens, the parish council, or certain members of the parish council or congregation, that they take certain actions;
 - (c) to the regional bishop, that the rector or the warden(s) or the applicant should be provided with certain training, leave or respite, and at whose cost; and
 - (d) any other corrections, actions, rebuke, decisions or directions deemed appropriate.
- (2) The Panel shall not make any recommendation under clause 3D(1)(d) unless it has –
- (a) given any person who will be required to act under the recommendation at least 14 days' written notice of the proposed recommendation and the reason(s) for the recommendation; and
 - (b) given due consideration to any response provided by that person.

3E. Miscellaneous

- (1) A person who voluntarily participates in proceedings with the Review Panel under this Ordinance agrees that he or she will not sue in defamation in respect of anything said or done in such proceedings.
- (2) The Anglican Church Property Trust Diocese of Sydney must use its best endeavours to insure members of the Panel against liability for anything reasonably done in the carrying out of this Ordinance. The cost of such insurance is to be borne by the parishes generally.
- (3) The members of the Panel who act reasonably in the discharge of their responsibility under this Ordinance are entitled to be indemnified against all liability they may have incurred whilst so acting to the extent that indemnity is not covered under a policy of insurance. The cost of such indemnity including the reasonable legal costs of such member is to be borne by the parishes generally.
- (4) Subject to this Ordinance, any report of the Panel, and all communications whether written or oral that occur during the procedures under this ordinance must be treated as confidential by all persons involved, except to the extent that disclosure is consistent with the purposes for which the Panel has provided the report or is required by law.

4. Notification to Parish

If the appointment of an assistant minister or a senior assistant minister of a Parish has been terminated in accordance with clause 3, the Rector of the Parish must consult the Regional Bishop of the region within which the Parish is situated about the communication of the termination before making any communication to the Parish about the said termination.

5. Lodgement of material with the Registrar

Any written statement issued under clause 3(3)(c), any response given under clause 3(3)(d) and any record of the consideration specified in clause 3(3)(e) must be lodged with the Registrar of the Diocese.

6. Undertaking by rector

Nothing in this Ordinance prevents the Archbishop from requiring an undertaking of the rector whom the assistant minister or senior assistant minister will assist concerning the work to be undertaken by the assistant minister or the senior assistant minister, as the case may be, or any other matter relating to the office to be exercised by the assistant minister or the senior assistant minister, as the case may be.

7. Vacancy in office of rector and appointment of new rector

Subject to clause 3, the term of office of an assistant minister or a senior assistant minister does not cease by reason of a vacancy occurring in the office of rector of the parish or upon a new rector being appointed to the parish and, in accepting an appointment to the parish, the new rector is taken to have:

- (a) adopted any obligation on the part of a former rector of the parish expressed in the assistant minister's or senior assistant minister's licence as if the new rector was named in the licence as the person subject to that obligation; and
- (b) adopted any agreement in relation to the office of the assistant minister or senior assistant minister made between the former rector and the assistant minister or senior assistant minister with the approval of:
 - (i) the Archbishop; and
 - (ii) the parish council.

8. Housing Arrangements

If the Parish requires an assistant minister or a senior assistant minister to live in a certain location, the housing arrangements must be approved as suitable by the Archbishop.

9. Guidelines

The Archbishop-in-Council may issue guidelines with respect to the termination of appointments under this Ordinance.

10. Commencement, repeal and transitional

- (1) Except for this clause, this Ordinance commences on 1 January 2018.
- (2) The *Assistant Ministers Ordinance 1990* is repealed on 1 January 2018.
- (3) Notwithstanding subclause (2) and subject to subclause (4), an assistant minister or a senior assistant minister will cease to hold office in accordance with the provisions of the *Assistant Ministers Ordinance 1990* as if that Ordinance had not been repealed if, before 1 January 2018:
 - (a) a valid notice was issued under clause 3(1) of the *Assistant Ministers Ordinance 1990*, or
 - (b) a new rector was licensed to the same parish to which the assistant minister was also licensed at the time and 90 days have not elapsed since the licence was issued to the rector.
- (4) For the purposes of subclause (3), "office" means the office of assistant minister or senior assistant minister in a parish that was held by the member of clergy on 1 January 2018.

Notes

Table of Amendments

Clause 2	Amended by Ordinance No 42, 2019.
Clause 3	Amended by Ordinance No 42, 2018 and 42, 2019.
Clause 3A	Inserted by Ordinance No 42, 2019.

Clause 3B Inserted by Ordinance No 42, 2019.
Clause 3C Inserted by Ordinance No 42, 2019.
Clause 3D Inserted by Ordinance No 42, 2019.
Clause 3E Inserted by Ordinance No 42, 2019.
Clause 4 Amended by Ordinance No 42, 2018.
Clause 8 Amended by Ordinance No 42, 2018.

STEVE LUCAS
Senior Legal Counsel

DANIEL GLYNN
Diocesan Secretary

5 November 2019