

CANON 10
CLERICAL APPOINTMENTS, EXCHANGES, RETIREMENTS AND TERMINATIONS

1. Clerical Appointments

All clerical appointments within the Diocese are made by the Bishop.

2. Clerical Vacancies

a) Filling a Vacancy in a Parish Incumbency

When a vacancy occurs in a parish incumbency, the Bishop will decide whether or not to fill the vacancy. In the event that the Bishop decides to fill the vacancy, he/she may do so as follows:

- i) The Bishop may begin to fill the vacant incumbency immediately by asking the Churchwardens to form a PSC, as set out below; or
- ii) The Bishop may appoint an interim priest in charge for such period as the Bishop considers appropriate, following which the Bishop will ask the Churchwardens to form a PSC, as set out below to begin to fill the incumbency; or
- iii) The Bishop may, with the concurrence of the Churchwardens, appoint a priest in charge for a definite term on the understanding that, at the conclusion of the definite term and with the concurrence of the Churchwardens and the Bishop, the cleric's appointment as parish incumbent will become indefinite.

b) Interim Appointment

The Bishop may appoint an interim priest in charge for such period as the Bishop considers appropriate.

c) Parish Financial Resources

Before the Bishop makes any appointment to a parish, the parish shall provide evidence satisfactory to the Bishop that the parish has sufficient financial resources to be able to provide the necessary remuneration for the cleric, in addition to meeting its other financial obligations.

3. Parish Selection Committee ("PSC")

a) Formation of PSC

If the Bishop has decided to fill the vacancy, he/she will ask the Churchwardens to form a PSC in accordance with section 2(a) (i) or (ii).

b) Composition of PSC

The PSC shall consist of:

- i. One of the Churchwarden or Deputy Churchwarden currently holding office having been appointed by the Incumbent;
- ii. One of the Churchwarden or Deputy Churchwarden currently holding office having been elected by the parish Vestry;
- iii. At least one of the individuals set forth in (i) and (ii) must be a Churchwarden.
- iv. The Churchwarden or Churchwardens currently holding office at the parish pursuant to Canon 15 (2)1, if there is no Churchwarden or Deputy Churchwarden as described in one of both of section 3(b)(i) or (ii) above;
- v. In the case of multipoint parishes, one Churchwarden from each congregation; and such other members of the parish, not fewer than four (4) or more than six (6) to a maximum of eight (8), to be determined by the Churchwardens and to be elected by Vestry.
- vi. The composition of the PSC should attempt to reflect the diverse communities within the parish.

c) Election of Chair of PSC

The members of the PSC shall elect a chair from among their number.

d) Function of PSC

The function of the PSC is to provide advice to the Bishop on the appointment of a cleric to fill the vacancy.

e) Vacancy on PSC

If a vacancy occurs on the PSC, the Bishop shall, after conferring with the churchwardens, appoint a new member of the PSC.

f) Conferring with PSC

The Bishop will confer with the PSC before making the appointment of a new incumbent under section 2 (a) (i) or (ii).

g) Time for Appointment

If a cleric has not been appointed to fill a vacancy in a parish incumbency within nine (9) months after the formation of the PSC and after the Bishop has conferred with the PSC, the Bishop may proceed to make the appointment.

4. Appointment of Assisting Clergy

- a) "Assisting Clergy" includes, but is not restricted to, Assistant Curates, Assistant Priests, and Associate Priests;
- b) The appointment of assisting clergy shall be made by the Bishop after consultation with the Incumbent and the Churchwardens;
- c) Subject to subsection (f), the appointment of assisting clergy shall be for a definite term. However, the term may be renewed upon the agreement of the Bishop and the Incumbent, after consultation with the Churchwardens;
- d) The terms and conditions of the appointment of assisting clergy shall include guidelines regarding expectations and responsibilities of the assisting clergy, the incumbent and the parish, which shall have been previously agreed to by the Bishop, the assisting clergy, the incumbent and the churchwardens;
- e) Before any appointment is made, the Bishop shall be satisfied that the vestry has made provisions for whatever part of the remuneration and benefits is to be paid by the parish;
- f) After the death, resignation or removal of the incumbent, any assisting clergy shall tender their resignation to the incumbent's successor.
- g) Where the Bishop, after consultations with the Churchwardens, deems it advantageous to the life of the parish, the Bishop may defer the submission of one or more resignations under subsection (f) to a date to be specified by the Bishop, to allow for the discussion of the possibility of a reappointment under subsection (d) of this Canon.

5. Appointment of Honorary Assisting Clergy

- a) Clergy appointed to a parish other than an assisting clergy shall be honorary assisting clergy and their appointment shall be made by the Bishop after consultation with the incumbent and the Churchwardens. The appointment of honorary assisting clergy shall be at the pleasure of the Bishop.
- b) After the death, resignation or removal of the incumbent, the honorary assisting clergy shall tender their resignation to the incumbent's successor.

6. Clerical Resignations

- a) Any cleric may resign, personally or by their attorney, by giving written notice to the Bishop. The Bishop may accept the written resignation of such cleric under the Bishop's jurisdiction. If the Bishop declines to accept such resignation, the applicant may demand a Commission of three, consisting of a cleric of the Diocese appointed by the Bishop, a cleric of the Diocese named by the applicant, and a lay member of the Synod, not a representative of such parish, named by the other two members of the Commission. If this Commission within one (1) month of its appointment, unanimously recommends the acceptance of such resignation, the Bishop shall comply therewith.
- b) Any cleric declared to be mentally incapable to manage their property or personal care by an Ontario Superior Court shall be deemed to have resigned.

7. Termination of Clerical Appointments

Clerical appointments may be terminated as follows:

Retirement or resignation of the cleric under this Canon;

- a) Withdrawal of the Cleric's License or appointment by the Bishop as a matter of discipline under Canon 22;
- b) Termination in accordance with the terms of the appointment;
- c) Non-disciplinary termination of appointment in accordance with Section 8 of this Canon.

8. Non-Disciplinary Termination of Appointment

a) Termination by the Bishop in writing

The Bishop, or pursuant to a delegation in writing of the Bishop's responsibility and authority under the provisions of this section, a Suffragan Bishop may terminate the appointment of a cleric, whether incumbent or assisting clergy, in accordance with the provisions of this section, upon notice to the cleric in writing;

b) Circumstances of Termination

Although it is not possible to set out all the circumstances which may lead the Bishop or a Suffragan Bishop to such a decision, they include financial difficulties within a parish, decline in parish membership, redeployment of human resources, and the inability of the cleric to carry out his/her ministry.

c) Preliminary steps required of Bishop

When the Bishop or Suffragan Bishop considers that there are circumstances within a parish which may require the termination of an appointment, the Bishop or Suffragan Bishop will first meet with the cleric and, where appropriate, with the churchwardens and others members of the parish:

- i) To review the particular circumstances with the parish;
- ii) To advise the cleric and lay members of the parish of his/her concerns;
- iii) To consider the views of the cleric and lay members of the parish;
- iv) To consider possible alternatives to the termination of the appointment including other appointments within the Diocese, a leave of absence, further education or professional development;
- v) To provide, financial, pastoral, vocational, or other assistance to the cleric or parish as may be appropriate; and
- vi) To review the procedure for the termination of clerical appointments, including the responsibilities of the Bishop or Suffragan Bishop, the Advisory Commission and the Arbitration Board.

d) Advisory Commission on Termination of Clerical Appointment ("Advisory Commission")

The Advisory Commission shall consist of 3 (three) members of Synod elected by the members of Synod, including at least 1 (one) lay and 1 (one) clerical representative. The elected members shall hold office from the conclusion of the meeting of Synod, until the conclusion of the next regular session of the Synod. The members shall elect a Chair from amongst them. In the event of the resignation or death of an elected member, the Chancellor shall appoint a replacement to complete the term of office.

e) Termination Procedures

If the Bishop or Suffragan Bishop after meeting with the cleric, intends to proceed with the proposed termination, the Bishop or Suffragan Bishop shall advise the cleric and the Advisory Commission in writing of the proposed termination, along with the reasons therefore. The Advisory Commission shall consider the circumstances surrounding the proposed termination of appointment and provide the Bishop or Suffragan Bishop with its advice. The Bishop or Suffragan Bishop and the cleric shall meet with the members of the Advisory Commission to review the matter. The Commission shall provide the Bishop or Suffragan Bishop, the College of Bishops, and the cleric with its written advice on the proposed termination of appointment within thirty (30) days of the receipt of the Bishop's or Suffragan Bishop's intention with the proposed termination. The Advisory Commission may, in its discretion, make public its advice and the reasons of the Bishop or Suffragan Bishop.

f) Offer of Reasonable Notice or Remuneration

In the event that the Bishop or Suffragan Bishop decides to terminate a clerical appointment, and is not in a position to provide a further appointment to the cleric, the Bishop or Suffragan Bishop will as soon as possible offer the cleric in writing, reasonable notice of the termination of the appointment, or remuneration and benefits in lieu of notice.

g) Establishment of Arbitration Board

In the event that the cleric is not satisfied with the amount of notice or remuneration and benefits in lieu of notice offered by the Bishop or Suffragan Bishop, the cleric may within thirty (30) days of receiving the offer, notify the Bishop or Suffragan Bishop in writing of his/her desire to submit the matter to arbitration and the notice shall contain the name of the cleric's appointee to the Arbitration Board. After receiving notice from the cleric, the Bishop or Suffragan Bishop shall within fourteen (14) days, inform the cleric of his/her appointee to the Arbitration Board. The two appointees so selected shall, within fourteen (14) days of the appointment of the second of them, appoint a third person who shall be the Chair. If the Bishop or Suffragan Bishop fails to appoint an Arbitrator, or if the two appointees fail to agree upon a Chair within the timeframe, the appointment shall be made by the Chancellor of the Ecclesiastical Province of Ontario.

h) Arbitration Procedures

The Arbitration Board shall provide an opportunity to the cleric and the Bishop or Suffragan Bishop to make submission to it in writing and to respond to the submissions of the other party. It shall determine the amount of notice or payment and benefits in lieu of notice to be given to the cleric including, where appropriate, financial and vocational counselling and shall take into account prevailing practices within the secular community. The decision of the Arbitration Board which shall be in writing, is final and binding on the cleric and the Bishop.

i) Authority of Arbitration Board

Notwithstanding subsection (h), the Arbitration Board, however, shall have no authority to change a decision by the Bishop or Suffragan Bishop to terminate an appointment.

j) Cleric in Good Standing

The termination of an appointment under this Canon does not affect the good standing of the cleric within the Diocese.

9. Education, Training and Professional Development

Where an appointment is terminated under section 8, the Bishop may consider it appropriate for the cleric to engage in further formal education, retraining or professional development for a period of time prior to, or as a condition of a further clerical appointment. In such an event, the Bishop and the cleric will attempt to reach a mutually satisfactory agreement governing the terms and conditions of such an arrangement.

10. Leave of Absence

- a) No cleric shall be continuously absent from the charge or duties to which such cleric is appointed for longer than one month in any one year, unless leave of absence in writing from the Bishop has been obtained.
- b) No leave of absence shall be granted for longer than two years, but leaves may be renewed by the Bishop on written application of the cleric seeking such leave.

11. Armed Forces or Government Service

Notwithstanding the provisions of the next two preceding sections, a cleric serving in The Canadian Armed Forces or in the service of a Provincial Government or the Government of Canada, may be granted leave of absence by the Bishop from such cleric's charge or duties or from the Diocese for a period not exceeding two years, but such leave may be extended by the Bishop from time to time.

12. Removal from the Diocese and Letters Dimissory

- a) Any priest or deacon under the jurisdiction of the Bishop of the Diocese, who desires to move from the Diocese, shall apply to the Bishop for Letters Dimissory.
- b) If the applicant is of good standing in the Diocese, the Bishop shall grant the said application, but in case of refusal, the Bishop shall state the reasons for such refusal in writing and such reasons shall be delivered to the applicant.

- c) The applicant may demand that the Bishop refer the said reasons to the Bishop's Court for determination of sufficiency, and the applicant will be bound by the findings of the Court after trial in accordance with the Canon of the said Court.¹

13. Exchange

In the event of the Bishop deeming it expedient that an exchange of Incumbents of any two parishes should be made, or in the event of any two Incumbents notifying the Bishop of their desire to effect an exchange, the Bishop shall confer with the said Incumbents. If the exchange is agreed upon, the Bishop shall confer separately with the Churchwardens and with the Lay Members of Synod who represent and are members of the vestry or vestries of the respective parishes, and if the consent of each of these groups is given to the exchange, the Bishop may proceed to carry it into effect.

14. Vocational Deacons

This Canon has no application to Vocational Deacons.

¹ Canon 10, s.12(c) will be added to the workplan for the Risk and Governance Committee to address implications and possible amendments.