

# Parental Leave Ordinance 2016

No 43, 2016

## Long Title

An Ordinance to provide a model policy for parental leave for clergy licensed to parishes in the Diocese of Sydney.

The Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the Parental Leave Ordinance 2016.

### 2. Definitions

In this Ordinance –

*Assistant Minister* means a deacon or presbyter licensed or authorised by the Archbishop to the office of assistant minister or senior assistant minister in a parish.

*minister* means a rector or an Assistant Minister.

*Parental Leave* means parental leave taken by a Minister in accordance with the form of the Policy in force in the parish to which the Minister is licensed.

*Parish* means a parish or provisional parish constituted under or recognised as such for the purposes of the Parishes Ordinance 1979, and also include the Cathedral Church of St Andrew Sydney.

*Parish Council* includes the Chapter of the Cathedral Church of St Andrew Sydney.

*Policy* means the model Parental Leave Policy set out in the Schedule.

### 3. Parental Leave Policy

The model Parental Leave Policy for clergy licensed to parishes in the Diocese of Sydney is set out in the Schedule.

### 4. Application of the Policy

(1) The Policy does not have effect in a Parish unless the Parish Council of the Parish resolves to adopt the Policy.

(2) A Parish Council may adopt the Policy with amendments.

(3) If a Parish Council adopts the Policy, the Rector of the Parish must notify the Registrar in writing as soon as practicable thereafter. If the Parish Council has adopted the Policy with amendments, the notice must enclose a copy of the amended form of the Policy.

(4) A Parish Council that has adopted the Policy may thereafter resolve to amend the Policy or to exclude the Policy. The Rector of the Parish must notify the Registrar in such instance.

### 5. Entitlements while on Parental Leave

(1) Subject to clause (2), a minister is not entitled to be paid or receive benefits during a period of Parental Leave except to the extent agreed by the Wardens and Parish Council or provided for in the form of the Policy in force in the Parish to which the minister is licensed.

(2) For the purpose of clause 3(1)(b) of the *Assistant Ministers Ordinance 1990*, a minister who is on Parental Leave is deemed to be entitled to the stipend, and to any other emolument or perquisite, they would otherwise have been entitled to had they not been on Parental Leave and must be paid such stipend, emoluments or perquisites during any period of notice given to the minister under that clause.

### 6. Continuity of service

(1) Parental Leave does not break a minister's continuity of service.

(2) Any period of Parental Leave in excess of 2 weeks is not to be taken into account in determining a minister's entitlement to leave under the *Annual Leave Ordinance 1983* and the *Long Service Leave Ordinance 1973*, notwithstanding the provisions of those ordinances.

*Note: A member of clergy must be in receipt of an ordinary stipend to render qualifying service for the purposes of the General Synod – Long Service Leave Canon 2010 Assenting Ordinance 2010.*

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### 7. Return to Service

- (1) If an Assistant Minister does not return to perform the duties of the office upon the end of a period of Parental Leave, including in circumstances where a request to be licensed part-time has been declined, the Archbishop may revoke the licence of the Assistant Minister in respect of that office.
- (2) Before revoking a licence under clause 7(1) the Archbishop must give the Assistant Minister opportunity to show cause why the licence should not be revoked.

### 8. Parish Cost Recoveries

Notwithstanding provisions in the *Cost Recoveries Framework Ordinance 2008* to the contrary, a Parish is not required to pay amounts under that ordinance pertaining to the "ministry costs" of a minister taking a continuous period of parental leave for the period beginning 2 weeks after the date the leave commences and ending on the date that the leave ends.

### 9. Review of the Policy

- (1) The Standing Committee is to undertake a review of the Policy after a period of 3 years after the date of assent to this Ordinance.
- (2) The Standing Committee may amend the Policy by resolution.

### 10. Commencement

Except for this clause, the provisions of the Ordinance commence on 1 January 2017.

## Schedule

### Policy for parental leave for parish clergy

#### Purpose and Application of this Policy

1. The purpose of this policy is to provide for parental leave for members of the clergy licensed to the Anglican Parish of [X]. The Policy was adopted by the Parish Council by resolution on [X].

#### Definitions

2. In this Policy –

**Adoption Leave** is leave taken by a male or female Minister in connection with the adoption by the Minister of a child under the age of 5 years not being a child who –

- (a) has previously lived continuously with the Minister for a period of at least 6 months, or
- (b) is a child or a step-child of the Minister or the Minister's spouse.

**Archbishop** means –

- (a) the Archbishop, or
- (b) during the absence of the Archbishop – the Archbishop's Commissary, or
- (c) if the See is vacant – the Administrator of the Diocese.

**Assistant Minister** means a deacon or presbyter licensed or authorised by the Archbishop to the office of assistant minister or senior assistant minister in the Parish.

**Maternity Leave** is leave taken by a female Minister in connection with the pregnancy or the birth of a child of the Minister.

**minister** means –

- (a) a rector, or
  - (b) an assistant minister (including a senior assistant minister),
- who is licensed as such to the Parish.

**Parental Leave** is –

- (a) Adoption Leave, or
- (b) Maternity Leave, or
- (c) Paternity Leave.

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**Parish** means the Anglican Parish of [X].

**Paternity Leave** is leave taken by a male minister in connection with the pregnancy or the birth of a child of his wife.

**Regional Bishop** means the bishop of the region within which the Parish is situated.

### Parental Leave for Women

#### 3. Entitlement to leave

- (1) A female minister is entitled to –
  - (a) up to 52 weeks continuous Maternity Leave as provided by this Policy;
  - (b) up to 52 weeks continuous Adoption Leave as provided by this Policy.
- (2) Maternity Leave is not to extend beyond 52 weeks after the date of birth of the child.
- (3) Adoption Leave is not to extend beyond 52 weeks after the date of placement of the child.

#### 4. Notice to be given

- (1) Before taking Parental Leave to which she is entitled under paragraph 4 the minister, subject to paragraph 4(3), must give at least 3 months written notice of –
  - (a) the expected date of birth of the child or the expected date of placement of the child, and
  - (b) the dates on which –
    - (i) the Parental Leave is to begin, and
    - (ii) the Parental Leave is to end.
- (2) Notice under paragraph 4(1) must be given to –
  - (a) the Archdeacon for Women's Ministry,
  - (b) the Regional Bishop,
  - (c) the Rector, and
  - (d) the Wardens.
- (3) If, by reason of circumstances, it is not reasonably practicable for a minister to comply with paragraph 4(1) she must give notice as soon as possible to the persons referred to in paragraph 4(2) of the date on which the Parental Leave began or is to begin and the date on which the Parental Leave ended or is to end.

#### 5. Extending the end date of Parental Leave

- (1) Parental Leave for which a minister has given notice under paragraph 4 may be extended at the request of the minister by notice given in writing to the persons referred to in paragraph 4(2) not less than 4 weeks, but preferably not less than 10 weeks, before the date specified for the purposes of paragraph 4(1)(b)(ii). The notice is to specify the new end date for the leave, which cannot be more than 52 weeks after the date specified for the purposes of paragraph 4(1)(b)(i).
- (2) A minister is entitled to only one extension under paragraph 5(1). Any extension thereafter requires the agreement of the persons referred to in paragraph 4(2).

#### 6. Cancellation or shortening of Parental Leave

Parental Leave for which a minister has given notice under paragraph 4 may be cancelled or shortened (whether or not the period of leave has commenced) at the request of the minister and with the agreement of the persons referred to in paragraph 4(2).

#### 7. Remuneration

- (1) The minister is not entitled to be paid or receive benefits during the period of Parental Leave.

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(2) During the period of leave, the minister may remain in occupation of any accommodation usually provided to the minister by the Parish if the minister pays an occupation fee to the Wardens which the Regional Bishop has approved as being just and equitable having regard to all of the circumstances.

### **8. Undertaking service during parental leave**

Notwithstanding the foregoing, a minister while on parental leave may, subject to the agreement of the Rector and the Wardens, undertake ministry duties on a limited or part-time basis in the Parish, and in such case is to receive such remuneration or benefits (if any) as may be agreed by or on behalf of the Parish Council.

## Parental Leave for Men

### **9. Entitlement**

- (1) A male minister is entitled to –
- (a) up to 2 weeks Paternity Leave at any time up to 6 weeks after the birth of the child,
  - (b) up to 2 weeks Adoption Leave at any time up to 6 weeks after the date of placement of the child.
- (2) Leave under this paragraph may be taken in a single continuous period or in separate periods with the agreement of the Rector and the Wardens.

### **10. Notice to be given**

- (1) Before taking Parental Leave to which he is entitled under paragraph 9, the minister, subject to paragraph 10(3), must give at least 4 weeks written notice of –
- (a) the expected date of birth of the child or the expected date of placement of the child, and
  - (b) the dates on which –
    - (i) the Parental Leave is to begin, and
    - (ii) the Parental Leave is to end.
- (2) Notice under paragraph 10(1) must be given to –
- (a) the Rector (if the minister is not the Rector), and
  - (b) the Wardens.
- (3) If, by reason of circumstances, it is not reasonably practicable for a minister to comply with paragraph 10(1) he must give notice as soon as possible to the persons referred to in paragraph 10(2) of the date on which the Parental Leave began or is to begin and the date on which the Parental Leave ended or is to end.

### **11. Remuneration**

The minister is entitled to continue to be paid a stipend or any allowances during the period of Parental Leave, and –

- (a) the minister may remain in occupation of any accommodation usually provided to the minister by the Parish, and
- (b) all payments required under the *Cost Recoveries Framework Ordinance 2008* on account of the “ministry costs” of the minister will continue to be paid.

## General Provisions

### **12. Eligibility**

A minister is only entitled to Parental Leave under this Policy if the minister has had at least 12 months of continuous service licensed to a position in the Diocese of Sydney immediately prior to the time of taking such leave.

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### 13. Parental Leave and other leave

A minister may take any annual leave or long service leave (or any part of it) to which the minister is entitled instead of or in conjunction with Parental Leave. However, the total period of leave taken by a female minister cannot be extended beyond the maximum period of Parental Leave to which that minister is entitled under this Policy.

### 14. Minimum entitlements

This Policy sets out the minimum entitlements of a minister to Parental Leave. Entitlements which are more favourable to the minister may be agreed among –

- (a) the minister, and
- (b) if the minister is a Rector, the Regional Bishop, and
- (c) if the minister is not a Rector, the Rector of the Parish, and
- (d) the Wardens.

### 15. Return to service

(1) A minister who takes Parental Leave is entitled to return, at the end of the period of leave, to the office held immediately before the commencement of that leave, unless, in the case of an Assistant minister, that office no longer exists because the Rector no longer requires the Assistant minister's former duties to be performed by anyone and the minister's appointment has been terminated in accordance with the *Assistant Minister's Ordinance 1990*.

(2) If a female minister who holds office on a full-time basis, would like to request a return to that office on a part-time basis, she should notify the Rector no less than 10 weeks before she is due to return to work. The notification must be in writing, set out the details of the proposed change and the reasons for the change. If the Rector supports the request he may apply to the Archbishop to have the female minister licensed to the Parish on a part-time basis.

(3) It should be noted that if a minister does not return to perform the duties of the office upon the end of the period of Parental Leave, including in circumstances where a request made under paragraph 15(2) has been declined, the Archbishop may revoke the licence of the minister in respect of that office in accordance with the *Parental Leave Ordinance 2016*.

### 16. Resolving Disputes

In the event that a dispute arises in respect to the operation of this policy, any party to the dispute may invite the Regional Bishop to meet with the parties with a view to facilitating resolution of the dispute.

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

K SOWADA  
Deputy Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 17 October 2016.

R WICKS  
Secretary of Synod

I Assent to this Ordinance.

GN DAVIES  
Archbishop of Sydney  
19/10/2016