

## Parental leave for parish clergy

(A report from the Standing Committee.)

### Key points

- An exposure draft bill has been prepared to make provision for parental leave for parish clergy.
- The Synod will be asked to give its in principle agreement to the proposal, having regard to some questions of policy that arise, before a final bill is brought to the 2016 session of the Synod.

### Purpose

1. The purpose of this report is to introduce a proposal for parental leave for clergy for the consideration of the Synod as an exposure draft.

### Recommendation

2. Synod receive this report.
3. Synod pass the following motion to be moved at Synod “by the request of the Standing Committee” –
- “Synod, noting the report *Parental Leave for Parish Clergy* –
- (a) agrees in principle to making provision for parental leave for parish clergy by ordinance, and
  - (b) invites Synod members to send any comments on the exposure draft bill for the *Parental Leave Ordinance 2015* to the Diocesan Secretary by 31 December 2015 and requests the Standing Committee to take these comments into account in finalising a bill for consideration at the 2016 session of Synod.”

### Background

4. At its meeting on 25 May 2015, the Standing Committee appointed a committee comprising Archdeacon Kara Hartley, the Rev Natalie Ray, the Rev Andrew Graham and a person appointed by the Stipends and Allowances Committee (Mr Paul Willis) to bring a proposal for parental leave for clergy to a future meeting, in consultation with the Archbishop.

### Evidence

5. The committee has prepared a bill for the *Parental Leave Ordinance 2015* and an accompanying explanatory statement. These are attached as Attachments 2 and 3. The bill is modelled on one that was put before the 1998 session of Synod, but not reached in the business of the Synod that year. The Committee has consulted with the Archbishop and the bill has been amended to incorporate the Archbishop’s feedback.
6. The bill aims to achieve the following things –
- (a) Clarity for rectors, wardens and ministers as to the minimum, reasonable expectations regarding parental leave for clergy. The bill states that it sets out the minimum parental leave entitlements and allows more favourable entitlements to be provided by mutual agreement.
  - (b) Provide care for clergy as children enter the family.
  - (c) Support clergy in a similar manner to Stipendiary Lay Workers.
7. Many Australian dioceses have made provision for parental leave for clergy. See Attachment 1 for a table summarising the provisions that are in place in those Australian dioceses for which information is readily available.
8. The bill may give rise to some questions of policy that should be considered carefully by the Synod. It is for this reason that the bill has been put forward to the Synod as an exposure draft, with an opportunity for Synod members to provide comments by the end of the year. Some of these questions may include –
- (a) *Whether any barriers are being created for engaging female clergy in parishes?*  
Instead of limiting rectors and wardens in engagement of clergy (male or female) the intention is to provide a clear framework for rectors and wardens in their support and care of clergy.
  - (b) *Whether male clergy ought to be entitled to 52 weeks paternity leave if they are to be the primary carer?*  
Should male clergy have similar provisions to female clergy in circumstances where their wife returns to the work force full-time after childbirth?

- (c) *Whether such an ordinance would endorse a policy for women returning to work after childbirth?*

It is not intended that the bill endorse or prescribe standard practice for if, and/or when, a female member of clergy should return to work. That is a matter for individual families. Rather it simply seeks to provide reasonable care of male and female clergy if they find themselves in the position of welcoming a child into their family.

For and on behalf of the Standing Committee.

ARCHDEACON KARA HARTLEY

24 August 2015

## Parental leave entitlements for clergy in other diocese

	Period	Paid	Housing	Qualifications	Notice	Paternity Leave	Other
<b>Anglican Diocese of Sydney</b>  Parental Leave Bill 2015 PROPOSED	Up to 52 weeks.	None (except PCR "ministry costs" for the first 2 weeks).	Can remain in parish provided house, subject to payment of occupation fee that the Regional Bishop has approved as being "just and equitable" in the circumstances.	12 months continuous service in the parish	At least 3 months (unless this is not reasonably practicable).	Up to 2 weeks unpaid (except PCR "ministry costs" and housing).	The bill reflects minimum entitlements. More favorable entitlements can be offered by agreement.  Ordinarily female clergy will be able to claim up to 18 weeks paid parental leave from Centrelink at the minimum wage and male clergy up to 2 weeks "Dad and Partner Pay".
<b>Anglican Diocese of Perth</b>  <i>Diocesan Council Clergy Leave Policy</i>	52 weeks unpaid to be the primary care giver. Can apply to parish council for extension.	None. No allowances while on leave	Can remain in rectory, but must pay rent equivalent to clergy housing allowance. Must vacate if they resign during leave.	12 months continuous service	At least 10 weeks before date leave to be taken.	1 week unpaid concurrent with spouse.  52 weeks unpaid if primary carer.	
<b>Anglican Diocese of Adelaide</b>  <i>Clergy Parenting Leave Ordinance 2003</i>	Up to 52 weeks. Further maternity leave can be taken by agreement.  Cannot take concurrent leave with spouse (apart from 8 weeks paternity leave).	First 12 weeks are paid leave.  Paid at "ordinary remuneration" less any amount entitled to under Commonwealth paid parental leave scheme.	Not addressed in ordinance.	12 months continuous service	At least 17 weeks' notice required before date maternity leave to be taken. 4 weeks' notice in the case of paternity leave. 8 weeks for adoption leave.	Up to 8 weeks (does not need to be continuous).	Period must be agreed between the member of clergy, wardens and archdeacon (but determined by bishop if no agreement).  Maternity leave in excess of 3 months must be approved by bishop. Paternity leave in excess of 1 week must be approved by bishop.

	Period	Paid	Housing	Qualifications	Notice	Paternity Leave	Other
<b>Anglican Diocese of Canberra and Goulburn</b>  <i>Clergy Leave Ordinance 1995</i>	<p>A maximum of 52 weeks leave.</p> <p>Diocese to pay super, family allowance, LSL and personal insurance during unpaid leave.</p>	<p>A period not exceeding 12 weeks paid maternity leave.</p> <p>Payment and provision of the same stipend, emoluments and benefits received immediately prior to leave. Includes allowances for housing, transport, telephone, energy and family.</p>	<p>During unpaid leave can live in parish provided accommodation but must pay rent at an agreed rate.</p>	<p>No period but must be a "female clergy member who is married".</p>	<p>Commences one month before expected date of confinement unless otherwise agreed.</p>	<p>Paternity leave – paid leave for up to 5 days in total (to be taken within period 1 week before birth and 6 months after birth of child).</p> <p>Bishop can grant extended paid leave if clergy member will be "the major carer of the child".</p>	<p>Return to position – entitled to return to position at end of leave if at least 3 weeks before the end of the period of paid maternity leave –</p> <p>(a) clergy notifies parish of intention to return at end of paid leave, or</p> <p>(b) has reached agreement with parish to return to position at the end of the unpaid leave period.</p> <p>If non-compliance with these requirements the bishop can revoke the licence after giving an opportunity to show cause. However some limitations on capacity to revoke if clergy claims that she was not able to reach agreement on reasonable terms and conditions.</p>
<b>Anglican Diocese of Bathurst</b>  <i>Parental Leave Regulations</i>	<p>Up to 52 weeks.</p>	<p>12 weeks of the leave is paid.</p> <p>The Diocese makes provision for payment of all stipend, emoluments and benefits (except housing) paid during paid leave, housing allowance for locum and super, LSL and stipend continuance insurance during unpaid leave. [It is not clear how this is funded].</p>	<p>"Clergy will be able to remain in their home during this leave"</p>	<p>Qualifying period of 40 weeks continuous service.</p>	<p>Nothing stated.</p>	<p>Nothing stated.</p>	

	<b>Period</b>	<b>Paid</b>	<b>Housing</b>	<b>Qualifications</b>	<b>Notice</b>	<b>Paternity Leave</b>	<b>Other</b>
<b>Fair Work Act 2009</b> (for comparison)	Up to 52 weeks. Can request up to an additional 52 weeks, which an employer can only refuse on 'reasonable business grounds'. Additional 2 days pre-adoption leave.	No statutory entitlement (apart from separate Commonwealth Paid Parental Leave Scheme – 18 weeks at national minimum wage, plus 2 weeks for dads).	N/A	12 months continuous service	At least 10 weeks, which details to be confirmed 4 weeks from EDC.	Same entitlement as mother if father will be the primary carer or the mother is not employed.  Entitlement to 8 weeks of concurrent leave if mother on parental leave.	Employer may require maternity leave to commence up to 6 weeks before birth unless medical certificate provided confirming fitness to work.  Can extend up to the 12 month limit without agreement of employer. Can only shorten with employer agreement.

## Parental Leave Ordinance 2015

No. \_\_\_\_\_, 2015

### Long Title

An Ordinance to provide for parental leave for members of the clergy in parishes in the Diocese of Sydney  
The Synod of the Diocese of Sydney Ordains as follows.

### Part 1 – Introduction

#### 1. Name

This Ordinance is the Parental Leave Ordinance 2015.

#### 2. Definitions

5 In this Ordinance –

**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.

10 **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.

15 **Assistant Minister** means an assistant minister and a senior assistant minister under the Assistant Ministers Ordinance 1990.

**Wardens** means –

- (a) in the case of a Parish to which Schedule 1 of the Parish Administration Ordinance 2008 applies - the wardens of the principal or only church of the Parish, and
- (b) in the case of a Parish to which Schedule 2 of the Parish Administration Ordinance 2008 applies – the Wardens of the Parish as a whole, and
- (c) in the case of the Cathedral – St Andrew's Cathedral Chapter.

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

**Minister** means –

- 25 (a) a Rector, or
- (b) an Assistant Minister.

**Paternity Leave** is leave taken by a male Minister in connection with the pregnancy or the birth of a child of the Minister's spouse.

**Parental Leave** is –

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

**Parish** means –

- 35 (a) a parish or provisional parish constituted under or recognised as such for the purposes of the Parishes Ordinance 1979, and
- (b) a recognised church or a provisional recognised church under the Recognised Churches Ordinance 2000.

**Rector** includes the Dean of St Andrew's Cathedral.

**Regional Bishop** means the bishop of the region within which the Minister is licensed.

## Part 2 – 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 Ordinance;
  - (b) up to 52 weeks continuous Adoption Leave as provided by this Ordinance.
- (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 clause 3, the Minister, subject to clause 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 clause 4(1) must be given to –

- (a) the Archdeacon for Women's Ministry,
- (b) the Regional Bishop, and
- (c) the Rector of the Parish to which the Minister is licensed, and
- (d) the Wardens of the Parish to which the Minister is licensed.

(3) If, by reason of circumstances, it is not reasonably practicable for a Minister to comply with clause 4(1) she must give notice as soon as possible to the persons referred to in clause 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 clause 4 may be extended at the request of the Minister by her giving notice to the persons referred to in clause 4(2) not less than 4 weeks before the date specified for the purposes of clause 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 clause 4(1)(b)(i).

(2) A Minister is entitled to only one extension under clause 5(1). Any extension thereafter requires the agreement of the persons referred to in clause 4(2).

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

Parental Leave for which a Minister has given notice under clause 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 clause 4(2).

**7. Remuneration**

(1) The Minister is not entitled to be paid or receive benefits during the period of Parental Leave under this Part.

(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.

(3) Notwithstanding provisions in the Cost Recoveries Framework Ordinance 2008 to the contrary, the Parish is not required to pay amounts under that Ordinance pertaining to the "ministry costs" of a Minister taking Parental Leave for the period beginning 2 weeks after the date the Parental Leave commences and ending on the date that the Parental Leave is to end, provided that the Wardens notify the Registrar in writing of –

- (a) the period of Parental Leave – as soon as practical after the Minister has given notice under clause 4, and
- (b) any change to the period of Parental Leave – as soon as practical after the leave has been extended, shortened or cancelled under clause 5 or 6.

## Part 3 – Parental Leave for Men

**8. Entitlement**

A male Minister is entitled to –

- (a) up to 2 weeks continuous Paternity Leave at any time up to 6 weeks after the birth of the child,
- (b) up to 2 weeks continuous Adoption Leave at any time up to 6 weeks after the date of placement of the child.

**9. Notice to be given**

(1) Before taking Parental Leave to which he is entitled under clause 8, the Minister, subject to clause 9(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 clause 9(1) must be given to –

- (a) the Rector of the Parish to which the Minister is licensed, if the Minister is not the Rector, and
- (b) the Wardens of the Parish to which the Minister is licensed.

(3) If, by reason of circumstances, it is not reasonably practicable for a Minister to comply with clause 9(1) he must give notice as soon as possible to the persons referred to in clause 9(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.

**10. Remuneration**

The Minister is not entitled to be paid a stipend or any allowances during the period of Parental Leave, except that –

- (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 must continue to be paid.

## Part 4 – General provisions

**11. Eligibility**

A Minister is only entitled to Parental Leave under this Ordinance if the Minister has had at least 12 months of continuous service in the Parish immediately prior to the time of taking such leave.

**12. Continuity of service**

- (1) Parental Leave taken under this Ordinance does not break a Minister’s continuity of service.
- (2) However, unless otherwise required by law or ordinance, Parental Leave in excess of 2 weeks is not to be taken into account in calculating a Minister’s period of service for any purpose.

**13. Parental Leave and other leave**

- (1) 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.
- (2) 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 Ordinance.

**14. Minimum entitlements**

This Ordinance 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 to which the Minister is licensed, and
- (d) the Wardens of the Parish to which the Minister is licensed.

**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.



(2) A female Minister who has taken Parental Leave may request that the Rector apply to the Archbishop for her to be licensed to an office in the Parish on a part-time basis. The request must be in writing, setting out the details of the proposed change of licence and the reasons for the change. This clause does not impose any obligation on the Rector or the Archbishop.

5 (3) 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 clause 15(2) has been declined, the Archbishop may revoke the licence of the Minister in respect of that office.

(4) Before revoking a licence under clause 15(3) the Archbishop must give the Minister opportunity to show cause why the licence should not be revoked.

10

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on  
2015.

Secretary of Synod

I Assent to this Ordinance.

Archbishop of Sydney

/ /2015

## Parental Leave Ordinance 2015

### Explanatory Statement

#### Key point

- The bill for the *Parental Leave Ordinance 2015* provides female clergy licensed to a parish up to 52 weeks continuous unpaid maternity or adoption leave and their male counterparts up to 2 weeks continuous unpaid paternity or adoption leave.

#### Purpose

1. The purpose of the bill is to provide for parental leave for members of the clergy licensed to parishes.

#### Recommendation

2. The Synod pass the bill as an ordinance of the Synod.

#### Explanation

##### *Parental Leave for Women*

3. Under the bill a female minister will be entitled to up to 52 weeks continuous maternity leave and up to 52 weeks continuous adoption leave. These entitlements are similar to those of female employees under the national employment standards in the Fair Work Act 2009, except that an employee can request an additional period of leave of up to 52 weeks, which can only be refused on 'reasonable business grounds'.

4. Parental leave is to be unpaid, except that cost recoveries payments pertaining to 'ministry costs' will be paid for the first 2 weeks of leave, which is consistent with the paternity leave period for male ministers.

5. Subject to meeting the eligibility criteria, a female minister on parental leave will be entitled to 18 weeks pay at the national minimum wage under the Commonwealth Paid Parental Leave Scheme. These payments are subject to income tax. Presently the national minimum wage is \$656.90 per week.

6. A female minister may remain in occupation of any accommodation usually provided by the parish during any period of parental leave if she 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. What is just and equitable may vary depending on a variety of factors, for example: whether the accommodation is owned by the parish or leased, the market value of rent in the area, the housing needs of the other staff of the parish and any alternative housing options available to the minister.

7. The notice requirements are set out in clause 4 of the bill. They require 3 months notice before the commencement of the leave, but give flexibility if it is not reasonably practicable for the minister to comply with this requirement.

8. Parental leave may be extended once under clause 4 at the request of the minister by her giving notice. Any further extensions must be by agreement. The total period of leave cannot exceed 52 weeks.

9. Parental leave may be cancelled or shortened at the request of the minister on the terms set out in clause 6.

##### *Parental Leave for Men*

10. Under the bill a male minister will be entitled to –

- (a) up to 2 weeks continuous paternity leave up to the date being 6 weeks after the birth of the child,
- (b) up to 2 weeks continuous adoption leave at any time up to 6 weeks after the placement of the child.

11. The entitlements of male clergy to parental leave are more limited than for male employees under the Fair Work Act 2009 who are entitled to up to 8 weeks leave concurrently with their spouse if she is on leave or 52 weeks leave if they are the primary carer. One reason for limiting the entitlements of male clergy is because ministry in a parish could be seriously affected if the (male) rector was absent for an extended period.

12. While on parental leave a male minister is not to be paid a stipend or any allowances usually provided to the minister. The Minister may remain in occupation of any accommodation usually provided to the Minister by the Parish, and all payments required under the Cost Recoveries Framework Ordinance 2008 on account of the "ministry costs" of the Minister must continue to be paid. Subject to meeting the eligibility criteria, a male minister on unpaid parental leave will be entitled to 2 weeks 'Dad and Partner Pay' at the national minimum wage under the Commonwealth Paid Parental Leave Scheme.

13. The notice requirements are set out in clause 9.

*General Provisions*

14. A minister will only be entitled to parental leave if he or she has had at least 12 months of continuous service in the parish immediately prior to the time of taking the leave. Parental leave taken under the bill will not break a minister's continuity of service but, to the extent the leave exceeds 2 weeks, it is not to be taken into account in determining a minister's period of service.

15. It is important to note that the bill provides that the entitlements of a minister to parental leave are minimum entitlements. Entitlements that are more favourable to the minister may be agreed between the persons referred to in clause 14.

16. Under the bill a minister may take any annual leave or long service leave instead of, or in conjunction, with parental leave. However, in the case of a female minister, the total period of leave cannot be extended beyond the maximum period of 52 weeks. Though a more favourable arrangement could be agreed upon in accordance with clause 14.

17. A female minister who has taken parental leave may request that the rector apply to the Archbishop for her to be licensed to an office in the Parish on a part-time basis in accordance with the terms in clause 15(2). The clause does not impose any obligation on the rector or the Archbishop since local circumstances may make granting the request impractical.

18. The Archbishop may revoke the licence of a minister, after giving the minister opportunity to show cause, if the minister does not return to perform the duties of office at the end of the period of parental leave.

For and on behalf of the Standing Committee.

ROBERT WICKS  
*Diocesan Secretary*

19 August 2015