

# Parish Relationships Ordinance 2001

No 43, 2001

## Preamble

- A. It sometimes occurs, with or without fault, that there is a loss of confidence in the minister as an effective pastor and the life of the parish is threatened by continuous disputes indicating a breakdown of relationships.
- B. It is necessary to encourage parishes to solve pastoral disputes within a parish by non-legal and non-adversarial means if possible.
- C. It is necessary to adopt a more modern approach to the question as to when a minister's health problems require him to leave a parish.
- D. To assist in fulfilling this aim, the Synod needs to provide the appropriate structure for parishes to have licensing reviews carried out by godly and competent people.

The Synod of the Diocese of Sydney Ordains -

## Name

1. This Ordinance is the Parish Relationships Ordinance 2001.

## Definitions

2. In this Ordinance -

"licensing review" means an enquiry into whether there has been a serious breakdown of pastoral relationships between the minister and a substantial number of the parishioners of a parish and to recommend appropriate action.

"minister" means a member of clergy having a separate cure of souls and the words "parish", "institution" and "incumbency" shall be read with necessary changes in the case where the cure of souls is otherwise than in a parish.

"Panel" means the panel established under the Parish Review (Monitoring Panel) Ordinance 1999.

"parishioner" means a person who claims to be a member of the Anglican Church of Australia, who is baptised and is at least 18 years of age and who has usually during 3 months within the past 12 months attended divine service at a church in the relevant parish and who does not claim to be a parishioner of any other church of the Anglican Church of Australia.

## Direction for Licensing Review by Regional Council

3. If a regional council considers that a serious breakdown may have occurred in the pastoral relationship between the minister and a substantial number of the parishioners of a parish in its region which is impeding or is likely to impede the promotion in the parish of the whole mission of the church, the regional council may direct the parish to participate in a licensing review.
4. A regional council may not direct a licensing review unless -
  - (a) the minister has served in the parish for at least 4 years from his institution, and
  - (b) it has received a certificate in accordance with clause 13, and
  - (c) it is satisfied that where appropriate a preliminary dispute resolution procedure (such as that outlined in the Parish Disputes Ordinance 1999) has been undertaken.
5. Notwithstanding anything in this Ordinance, a regional council may direct that a licensing review be held if it considers that the minister's physical or mental health raise grounds for concern as to his capacity to discharge his duties.

## Request for Licensing Review by a Parish

6. If the majority of the churchwardens of any church in a parish consider that there is a substantial majority of parishioners of the view that there is a serious breakdown of pastoral of relationships between the minister and the parishioners, they may, provided that the condition specified in clause 4(a) has been met, request in writing that the minister and the churchwardens of the principal church in the parish convene a vestry meeting to consider passing a resolution that such state of affairs exists.
7. If the minister and churchwardens of the principal church in the parish fail to convene the requested meeting within 14 days after the request is made, the churchwardens who have requested the vestry meeting may convene it.
8. Notwithstanding anything in any other ordinance, the person who chairs the vestry meeting referred to in clauses 6 or 7 or the meeting referred to in clause 28 or 29, is to be a person nominated by the area archdeacon. The person appointed shall not be a bishop or archdeacon and shall not be a person who has at any time been a regular communicant in the parish concerned.

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9. At the vestry meeting, the chairman shall, after due time for debate, put the motion "That this vestry meeting considers that a state of affairs exists in this parish leading to the breakdown of relationships between the minister and the parishioners". The motion is not capable of amendment.

10. The chairman shall neither take part in the debate nor vote.

11. Voting must be by secret ballot. The chairman shall make due provision for the proper counting of the ballot papers.

12. If the chairman declares that the motion has been carried by at least 65% of the parishioners attending and voting, he or she must certify to the Panel that a substantial number of parishioners is of the view referred to in clause 6. The chairman's declaration and certification is final.

13. The chairman must send a copy of the certificate to the secretary of the regional council together with a request that a licensing review be held in accordance with the decision of the vestry meeting.

### **Licensing Review Group**

14. The Synod shall elect a licensing review group of 10 persons, of whom at least 4 shall be in priest's orders and at least 4 shall be lay persons from whom members of licensing review boards may be chosen.

### **Licensing Review Board**

15. A licensing review is to be conducted by a licensing review board consisting of 5 persons, namely -

- (a) a chairman appointed by the Panel,
- (b) 1 person nominated by the minister,
- (c) 1 person selected by the parish council,
- (d) 2 persons appointed by the Panel, provided
  - (i) no person who currently worships or within the previous 3 years habitually worshipped in a church in that parish shall serve on a licensing review board for a parish, and
  - (ii) at least 2 members of the board shall be in priest's orders, and
  - (iii) the regional council may select a member should the Panel, minister or parish council fail to appoint, nominate or select within 14 days of a request by the regional council to do so.

The person referred to in clause (b) need not be a member of the licensing review group, but all other members shall be members of the licensing review group at the time of their appointment to the licensing review board.

16. For the purpose of electing the person referred to in clause 15(c), the churchwardens of the principal church shall convene a special meeting of the parish council. The minister shall not attend the meeting. The meeting shall choose its own chairman.

17. No person who is a bishop or is or has been an archdeacon shall be a member of a board constituted under clause 15. This prohibition does not apply to a person who has not served as a territorial archdeacon or regional bishop in the region in which the relevant parish is situated.

18. The members of the licensing review board shall meet as soon as practicable after their election. The chairman appointed by the Panel shall preside at their meetings and shall be the person to whom communications to the group may be addressed.

19. A licensing review board may inform itself of the relevant facts in whatever way it considers appropriate. It shall not be bound by any legal formalities. No person is entitled to representation by counsel or solicitor or any other person, unless the board decides that it would be unfair to that person not to grant such representation. No person has the right to cross examine any other person.

20. A licensing review board shall take all reasonable action to enable it to ascertain whether there has been a serious breakdown of pastoral relationships between the minister and a substantial number of the parishioners of a parish which necessitates action.

21. In the course of the licensing review, the licensing review board shall ensure that the views and comments of as many parishioners as possible as well as of the minister and members of the parish council are considered. The licensing review board may become appraised of such views and comments in writing or by oral report from one or more members of the licensing review board speaking with people either individually or in groups.

### **Report of Licensing Review Board**

22. The licensing review board must, as soon as practicable after conclusion of gathering relevant material, prepare a report including a set of recommendations.

23. A licensing review board may simply report that no action be taken to disturb the then present organisation of the parish, with or without comments or suggestions.

24. A licensing review board's report may recommend any 1 or more of the following -

- (a) that specific courses of action be taken in the parish (whether or not such action is of a type specified in the succeeding paragraphs of this clause),

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- (b) the minister resign his licence under this Ordinance,
- (c) that a fixed term be placed on the minister's licence,
- (d) that certain named lay members of the parish be required from a specified date to stand aside from being a churchwarden or a member of parish council of the parish in question or from holding such other office or offices in the parish as may be specified in the report for a designated period for up to three years thereafter,
- (e) that no action be taken at present but that a further parish development review or licensing review be held at a time at least two years hence.

25. Without derogating from the generality of clause 24(a), the specific courses of action may include a recommendation that particular clergy do not officiate at particular services, that particular people are not put or left in charge of particular organisations in the parish, that certain organisations be disbanded, that the parish consider amalgamation or that expert advice be taken on particular issues.

26. The report shall present the view of the majority of the members of the licensing review board. In the case of an equality of opinions, the view of the chairman shall prevail, provided always that no recommendation that the minister resign his licence shall be made unless at least 4 members of the licensing review board concur.

27. The report must be sent to the minister and each of the churchwardens of the principal church of the parish.

### **Adoption of the Report by the Parish**

28. Within 21 days of receipt of the report, the minister and churchwardens of the principal church shall convene a vestry meeting of the parish to consider and if thought fit adopt the set of recommendations in the report. The minister shall be deemed to have joined in the convening of the meeting if he is requested by the churchwardens in writing to join in convening the meeting and fails to do so within 3 days of such request.

29. Should the minister and churchwardens fail to convene such vestry meeting, the same shall be convened by the area archdeacon.

30. At the said vestry meeting, the chairman shall, after due time for debate put the motion: "That this vestry meeting adopts the set of recommendations in the report of the Licensing Review Board". The motion is not capable of amendment. Apart from appropriate formal matters, no other business shall be transacted at such meeting.

31. The chairman shall neither take part in the debate nor vote.

32. Voting must be by secret ballot. The chairman shall make due provision for the proper counting of the ballot papers.

33. Should the chairman declare that the motion has been carried by at least 65% of the parishioners attending and voting, he or she shall certify that fact to the Archbishop. The chairman's declaration and certification shall be final.

34. Should a licensing review board make a recommendation in terms of clause 24(b) which is adopted by the vestry meeting referred to above, the Archbishop shall revoke the minister's licence to take effect from the date 1 month and 1 day after the date of the vestry meeting. The minister having been provided with an opportunity to show cause against the revocation of his licence under this ordinance to the Licensing Review Board, and then, if applicable, to the Appeal Committee, shall have no further right to show cause against its revocation.

35. Should a licensing review board make a recommendation in terms of clause 24(c), which is adopted by the vestry meeting referred to above, the minister shall be deemed to have surrendered his licence on the date 1 month and 1 day after the date of the final report and to have been issued with a licence on such date containing the recommended conditions.

36. Should a licensing review board make a recommendation in terms of clause 24(d), the persons named shall be deemed to have resigned their office at the date specified in the final report unless they have previously resigned. Such person shall be ineligible to hold the specified office or offices in the parish for the period specified in the recommendation calculated from the specified date or date of earlier resignation.

### **Appeal Group**

37. The Synod shall at its first session elect 5 members of clergy who are or have been incumbents and 5 lay persons who are or have been churchwardens for a period of at least 2 years to constitute an appeal group for the purposes of this Ordinance.

### **Appeal Committee**

38. An appeal from a recommendation of a licensing review board may be considered by an appeal committee consisting of -

- (a) the Chancellor or his or her nominee (being a judge, former judge, or a barrister or solicitor of 10 years' standing), and
- (b) a person who is a bishop or archdeacon (not being the regional bishop or archdeacon of the region in which the parish is situated) appointed by the Archbishop in council, and

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- (c) 3 persons to be selected by the Panel of whom 1 at least must be a member of the clergy from the appeal group elected by the Synod.

39. No person shall serve on an appeal committee if he or she is a member of the parish concerned or if he or she considers that a reasonable observer would conclude that he or she is so closely associated with one or more of the persons involved as to be unable to give completely impartial consideration to the appeal.

40. Should there be more than one appeal from the recommendations of a licensing review board, such appeals shall be considered by the same appeal committee either together or one after the other as the appeal committee in its discretion considers appropriate.

### **Right of Appeal**

41. A person who considers that he or she has been detrimentally affected by a recommendation of a licensing review board adopted by a vestry meeting convened under clause 28 or 29 of this Ordinance may appeal to the appeal committee.

### **Notice of Intention to Appeal**

42. No appeal may be entertained by the appeal committee unless the appellants give written notice of intention to appeal to the regional bishop or the Diocesan Secretary no later than 1 month after the date of the said vestry meeting.

### **Lodgment of Appeal**

43. The lodgment of an appeal will operate as a stay of any effect of a recommendation up until 21 days after the appeal committee is constituted. The appeal committee may, for good and proper reasons extend such stay until the determination of the appeal.

### **Evidence on Appeal**

44. The report of the licensing review board shall be accepted as prima facie evidence of the truth of the matters contained therein. The appeal committee shall determine any matters of fact that it considers it needs to determine in such manner as it considers appropriate without being bound by the rules of evidence.

### **Effect of Appeal Committee's findings**

45. The appeal committee may affirm, vary or set aside, any recommendation of a licensing review board that has been appealed against and, if appropriate, substitute other recommendations and add additional recommendations.

46. The decision of the appeal committee shall be final.

47. The decision of the appeal committee shall be in writing attested by the chairman or some other member, dated and delivered to the Archbishop, each of the appellants and the secretary of the parish council of the relevant parish.

48. Where an appeal is lodged under this Ordinance, clause 34 shall operate as if the words "date of the appeal committee's decision" were substituted for the words "date of the vestry meeting".

49. To the extent that the appeal committee varies, sets aside, substitutes or adds recommendations, clauses 34, 35 and 36 shall operate on the recommendations determined by the Appeal Committee as if they had been part of the licensing review board's recommendations adopted by the vestry meeting.

### **Declaration**

50. It is hereby declared that a person who ceases to hold office under this Ordinance is not removed for fault nor is his or her ability or character impugned in any way: the removal is made solely in the interests of the church.

### **Request to Archbishop**

51. Synod requests the Archbishop to use his best endeavours to place any member of clergy who loses office under this ordinance in an office of similar status or, if that cannot be done, ensure that the parish make or contribute toward appropriate compensation.

### **Incapacity of Clergy**

52. A member of the clergy who has been found by any court or tribunal of competent jurisdiction to be incapable of managing his or her own affairs shall be deemed to have surrendered any licence held by him or her on the day of such finding.

53. Should the finding referred to in clause 52 be set aside by the court or tribunal or by an appeal court any licence surrendered under that section shall be restored and shall be deemed to have been restored as at the date of surrender.

54. No person shall be appointed permanently to a position vacated by the surrender of a licence under clause 52 until after the expiry of the period allowed for appeal, and, if an appeal is lodged, the determination of that appeal.

55. Should the churchwardens of any church have reasonable grounds to suspect that the physical or mental health of the minister is such that they consider that he is unable to fulfil his duties, they shall report same to the regional bishop with a view to action being taken under clause 5.

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56. The Incapacity and Inefficiency Ordinance 1906 is repealed.

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

R TONG  
Deputy Chairman of Committees

We Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2 November 2001.

C J MARONEY  
M A PAYNE  
Secretaries of Synod

I Assent to this Ordinance.

PETER F JENSEN  
Archbishop of Sydney  
9/11/2001