

TERMINATION OF RECTOR'S APPOINTMENT CANON

(Assented to and passed 4 May 1998, Amended 2006)

1. Preamble

To provide for the removal of Rectors from their Parishes when the necessity arises.

2. Enquiry

If the Bishop sees fit at any time to institute a formal enquiry into any matter appearing to him to be of so serious a nature as to raise the question of the expedience of removing a Rector from his/her Parish or Office for any of the offences enumerated in section 03 of this Canon he may refer the same to the Commissioners of the Standing Commission and direct them to enquire into and report to and advise him thereon.

No enquiry shall be directed after the expiration of two years from the discovery by the Diocesan authorities of the alleged offence.

3. Offences

The following shall be deemed ecclesiastical offences or matters cognisably under the provisions of this Canon:

- (a) Drunkenness;
- (b) Insolvency or failure to pay debts without sufficient excuse therefore;
- (c) Habitual and wilful neglect of ministerial duty after special admonition in writing by the Bishop in that behalf;
- (d) Absence from his/her Parish or Office for a period exceeding three months without the leave in writing of the Bishop;
- (e) Any offence punishable by law being sinful in itself;
- (f) Conduct in itself disgraceful or productive of scandal and evil report;
- (g) Wilful contravention or violation of the provisions of the Constitution Canons Rules or Regulations of Synod.

4. Commission

4.1. There shall be a Standing Commission to enquire into and advise the Bishop upon all questions which may be referred to it for enquiry regarding the expediency of removing Rectors from their Parish or Office.

4.2. Membership

- (a) The Commission shall consist of the Chancellor as Chairman and three Clergypersons licensed to the Cure of Souls in a Parish and two Lay Synod persons who shall be elected at each ordinary session of Synod.
- (b) If the Chancellor is absent from any meeting the Commissioners present may elect a Chairman for the meeting.
- (c) The Chairman shall have a casting vote but no deliberative vote.
- (d) The presence of at least two Clerical and one Lay Commissioner shall

be necessary to constitute a meeting of the Commission.

4.3. Disqualification

- (a) If an elected Commissioner is the Rector of a Parish in respect of whom an enquiry is directed, or a Parishioner of that Parish, he/she shall be disqualified from acting as a Commissioner in that enquiry.
- (b) When a Commissioner is so disqualified another Commissioner shall be appointed for such enquiry by the Synod if it is in session or by the Bishop in consultation with the Diocesan Council. The office of such Commissioner shall become vacant immediately on termination of the enquiry.

4.4. Resignation

A Commissioner may by writing addressed to the Bishop resign his/her office or may be removed therefrom for sufficient cause by the Bishop in consultation with the Diocesan Council.

4.5. Casual Vacancy

If the office of an elected Commissioner becomes vacant the vacancy shall be filled by the Synod if it is in session or by the Bishop in consultation with the Diocesan Council.

- 4.6. The Commission constituted under this Canon shall be deemed a Diocesan Court within the meaning of the eighth section of Determination No. 2 Session 1872 of the General Synod and every enquiry held and any removal of a Rector consequent thereon shall be deemed a trial within the meaning of the said section.

5. Process

- 5.1. The Commissioners shall meet at such time and place as may be convenient.
- (a) The Chancellor shall summon the meeting giving to each Commissioner not less than four days written notice thereof.
 - (b) Any meeting may be adjourned.
- 5.2. The Commissioners shall, after due notice in writing to the Rector stating the nature of the alleged offence, together with the name and address of the party (if any) complaining, proceed to enquire into the matters referred to them and shall call upon the Rector to make, within a time to be specified, an answer or explanation and to offer evidence in person or otherwise as he may see fit in regard thereto and shall afford him all reasonable facilities for that purpose.
- 5.3. Whether or not the Rector shall have made any answer or explanation or offered any evidence in regard thereto, the Commissioners, having enquired into the whole matter shall report in writing thereon to the Bishop.
- 5.4. If the Commissioners, or a majority of them report to the Bishop that in their opinion it is expedient by reason of the matters appearing in the enquiry that the Rector should be removed from Office and advise the Bishop to that effect the Bishop may withdraw the licence of the Rector, remove him/her from his/her Office and dispossess and depose him/her of and from all title thereto or interest therein and of all the temporalities thereof.
- 5.5. (a) When a Rector is removed under the provisions of section 05.4. an instrument of deprivation shall be executed under the hand of the

Bishop in such form as to him may seem desirable under the circumstances of the case and filed in the Diocesan Registry.

- (b) A duplicate copy of such instrument under the hand and seal of the Bishop shall be served forthwith upon the Rector. If personal service thereof cannot be effected, the same may be served by sending it through the post in a registered envelope addressed to the Rector at his last known place of abode.
- (c) A Rector who, after service of an instrument of deprivation in the prescribed manner, refuses or neglects to comply with the tenor thereof shall so far as regards any property of the Church or temporalities in or belonging to the Parish be deemed a trespasser and may be proceeded against in the Temporal Courts.

6. Removal of Rector for other Reasons

Notwithstanding anything to the contrary contained herein, if a Rector leaves his/her Parish and remains absent therefrom for a period exceeding three months without leave in writing from the Bishop or leaves the Diocese without such leave the Bishop, in consultation with the Diocesan Council, may without any further proceedings remove such Rector from his/her Office and declare the Parish vacant.

No appeal shall lie against a removal under this section.

7. Notice of Removal

In every case of removal of a Rector from his/her Parish the Bishop shall notify the fact to the Diocesan and Parochial Nominators, or if there be no Parochial Nominators, to the Churchwardens of the Parish.

8. Power to Inhibit

When the Bishop directs an enquiry he may inhibit the Rector from performing the Services of the Church or from exercising his/her Office until the determination of the enquiry or the appeal if any against such determination and may with the consent of the Churchwardens of the Parish appoint a substitute to act for the Rector while the inhibition remains in force.

9. Bishop's Rights Reserved

Nothing in this Canon shall be so construed as to affect any right or spiritual authority which the Bishop may exercise by virtue of his Office.

10. Tribunal Canon

11.1. Nothing contained herein shall exempt or exclude a Rector from the operation of the Tribunal Canon or affect or impair the power or authority thereby conferred upon the Bishop or any other person or persons or upon any Tribunal constituted thereunder.

11.2. After an enquiry has been directed under this Canon a Rector shall have no right to elect or require proceedings to be instituted against him under the Tribunal Canon.

11. Short Title

"Termination of Rector's Appointment Canon 1998".