

HOLDING OFFICE BEYOND THE AGE OF 70

A. THOSE HOLDING OFFICE ON COMMON TENURE

1. The Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 2017 (SI 2017 No 316) provide a simplified regime permitting people to be appointed to office or continue in office after attaining the age of 70 by inserting a new Reg 29A into the 2009 Regulations. The 2017 regulations can be found at https://www.legislation.gov.uk/ukxi/2017/316/pdfs/ukxi_20170316_en.pdf
2. The regulations came into force on 1st July 2017.
3. The Regulations only apply to those who hold office on Common Tenure. For those not on common tenure, see para 11 *et seq* below.
4. A diocesan bishop may give a direction that an incumbent, team vicar, priest in charge or assistant curate may be appointed or remain in office after the age of 70 only if the bishop
 - (a) considers that the pastoral needs of the parish or parishes concerned or of the diocese make it desirable to give the direction, and
 - (b) has obtained the consent of the parochial church council of the parish or each of the parishes concerned.
5. The consent of the PCC should be a decision of the whole PCC taken in accordance with the normal rules contained in the Church Representation Rules.
6. If a direction is given, the incumbent, team vicar, priest in charge or assistant curate must hold office for a fixed term or a series of fixed terms. There is no maximum term and no upper age limit, and there is no limit to the number of successive fixed terms which may be granted.
7. A bishop may not give a direction unless he or she considers that the person in question will be capable of performing the duties of the office throughout the period for which the person is to hold the office.
8. The regulations are permissive and do not create any entitlement to continue in office beyond the age of 70. There is no appeal from a refusal to give a direction.
9. There are similar provisions allowing archdeacons and residentiary canons to continue on office (but not be appointed to office) beyond the age of 70, except that those office holders cannot continue in office beyond the age of 75.
10. There are similar provisions allowing a suffragan bishop or dean to continue in office (but not be appointed to office) beyond the age of 70. In these cases the diocesan bishop must obtain the concurrence of the relevant archbishop, and these office holders cannot continue in office beyond the age of 75.
11. There are similar provisions allowing a diocesan bishop (but not an archbishop) to continue in office (but not be appointed to office) beyond the age of 70. In this case the relevant Archbishop must give the direction and the diocesan bishop cannot continue in office beyond the age of 75.

FORWARD IN FAITH LEGAL ADVICE

B. THOSE NOT HOLDING OFFICE ON COMMON TENURE

12. The provisions of the Ecclesiastical Offices (Age Limit) Measure 1975 now only apply to those not holding office on Common Tenure (by virtue of a new section A1 inserted in the Act by the Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 2017).
13. Only incumbents who were in office before 31st January 2011 and who have not opted in to common tenure will be covered by the provisions. Team Vicars, Priests in Charge and Assistant Curates will always hold office on Common Tenure, whenever appointed.
14. Section 3 (2) of the 1975 Measure provides

Where a diocesan bishop considers that the pastoral needs of a parish in his diocese or of his diocese make it desirable that a person holding—

 - (a) *the office of incumbent of a benefice in his diocese,*
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should continue in that office after the date on which he would otherwise retire in accordance with section 1 of this Measure, the bishop may, with the consent of the parochial church council of the parish, or, as the case may be, of each of the parishes, belonging to the benefice, from time to time authorise the continuance in that office of that person after that date for such period or further period, not exceeding two years in all, as he may specify.
15. It should be noted that for this section to apply
 - a) The bishop must consider that the pastoral needs of the diocese or the parish make it desirable.
 - b) The PCCs of all relevant parishes must agree. This should be a decision of the whole PCC taken in accordance with the normal rules contained in the Church Representation Rules.
 - c) The maximum period or periods for the continuance of the incumbency is two years in total. In other words, the incumbency cannot be extended beyond the incumbent's 72nd birthday.
16. The Measure is permissive and does not create any entitlement to continue in office beyond the age of 70. There is no appeal from a refusal by a bishop to allow an incumbent to continue in office.
17. An incumbent who is approaching the age of 70 and who wishes to remain in office should consider opting in to Common Tenure so that he can take advantage of the more flexible provisions above.