

LAW ON PASTORS

of the

EVANGELICAL LUTHERAN CHURCH IN SOUTHERN AFRICA (N-T)

{Abbreviated Name: ELCSA (N-T)}

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CHAPTER 1

GENERAL PROVISIONS

Section 1 General

In this Law, unless the context indicates otherwise, singular shall include plural and vice versa and masculine shall include feminine and vice versa.

Section 2 Relationship of Service and Trust

- (1) The Pastor's service is defined by the Commission, which the Church has received from its Lord.
- (2) The service relationship with the Pastor is regulated by Church Law and is based on service in, and loyalty towards the ELCSA (N-T).
- (3) The provisions on hours of work and overtime of the Basic Conditions of Employment Act [Act. No. 75 of 1997 (as amended)] does not apply to Pastors.

Section 3 Commitment to Gospel, Confession and Church Laws

- (1) The Pastor is bound by his ordination to teach the Gospel, in its purity as revealed in the Holy Scriptures and testified to in the Evangelical Lutheran Confessions, [Basic Article Constitution ELCSA (N-T)] in exclusive obedience to God and to administer the sacraments according to the Gospel.
- (2) The Pastor bears particular responsibility for the unity within the congregation and the Church in doctrine and in life and promotes cohesion and cooperation between the members of the Church and its ministries.
- (3) All Church Laws and other regulations of the Church are binding on him.
- (4) The Pastor is obliged to prove himself worthy of the Office of the Church through his lifestyle. He shall also conscientiously fulfil his duties as member of the congregation.
- (5) The Pastor is subject to visitations and supervision.

Section 4 Right to Protection and Care

Based on the relationship of service and loyalty, the Pastor is entitled to protection in his service and in his position and also has the right to social security for himself and his family.

CHAPTER 2

THE SERVICE RELATIONSHIP

Section 5 Eligibility

- (1) A person, who is eligible and who has been ordained, may be called into service as Pastor.
- (2) Applicants, who are members of Churches from within the United Evangelical Church in Southern Africa (UELCSA), are eligible to be employed if they:
 - (a) are at least twenty-five years old;
 - (b) are free from illnesses and disorders, which would hamper the execution of normal pastoral duties;
 - (c) lead a life befitting a servant in the office of the Church;
 - (d) have received the prescribed academic and practical training to qualify for employment as Pastor and have passed the first and second theological examinations, the second of which is set by the UELCSA.
- (3) Church Council may grant exceptions to paragraph 2(a) in special circumstances.

Section 6 Applicants from other Churches

Applicants, who subscribe to the Evangelical Lutheran Confession and who have qualified for employment in a Church which is not a member of the UELCSA, may qualify for employment within the ELCSA (N-T) if it is proved that the training was of equal standard or if the standard of such training is generally accepted and all other requirements have been satisfied.

Section 7 Establishment of Eligibility

- (1) Eligibility for employment in terms of section (5) is established by Church Council. If more than five years have elapsed since the passing of the second theological examination without a service relationship having been entered into, the establishment of eligibility or the continued acknowledgment thereof may be made dependent upon the outcome of a colloquium. The same will apply where the Pastor has been without an active ministry for more than five years.
- (2) A decision on the eligibility in terms of section (6) may be determined either by a colloquium or by an examination.
- (3) If an applicant did not give his pledge according to section 9(3) at the time of his ordination, such pledge shall be given later. Church Council shall assess whether or not a theologian, who has been transferred from another confession, needs to be ordained.

- (4) The fact that a person is eligible as a Pastor does not in itself convey upon him the right to be employed as such.

Section 8 *Loss of Eligibility*

- (1) Eligibility for employment is lost when a candidate, who has passed his second theological examination, withdraws his candidacy or has been removed from the list of candidates.
- (2) On readmission to the list of candidates, he may again be declared eligible to be employed as a Pastor.

Section 9 *Ordination*

- (1) The right and duty to public preaching and administration of the sacraments is conferred by ordination. In general the ordination implies that an employment relationship as Pastor is to be established.
- (2) Prior to the ordination the ordinator discusses the significance of the ordination and prerequisites for the assumption of the Office of the Church with the person to be ordained.
- (3) The person to be ordained pledges in writing that his preaching and teaching will conform to the Gospel of Jesus Christ as revealed in the Holy Scriptures of Old and New Testament and testified to in the Evangelical Lutheran Confessions [Basic Article Constitution ELCSA (N-T)].
- (4) The ordination is performed in accordance with the relevant order of service.
- (5) The ordained person receives a certificate of ordination.

Section 10 *Loss of Rights conferred by Ordination*

- (1) The right to public preaching and to administer the sacraments is lost:
 - (a) when the service relationship of the Pastor with the Church is terminated in accordance with sections 57(5) to (11);
 - (b) when the Pastor leaves the service as a result of a breach of his obligation to teach in accordance with section 57(6);
 - (c) when the Pastor is removed from service as a result of a breach of his official duties in accordance with section 57(10); or
 - (d) when the Pastor waives this right.
- (2) A member of the Ecclesiastical Council shall confer with the affected person about the loss of the right to public preaching and to administering the sacraments. The affected person is entitled to be assisted by an ordained confidant from within UELCSA and to a fair and proper disciplinary hearing.

- (3) The certificate of ordination is to be handed back.
- (4) Member Churches of UELCSA shall be informed of the loss of rights.

Section 11 *Re-conferring of Rights*

- (1) Church Council may re-confer the right to public preaching and to administer the sacraments in cases where the provisions of section (10)(1) no longer apply.
- (2) The certificate of ordination may be re-issued.
- (3) Member Churches of the UELCSA shall be informed that the rights have been re-conferred.

CHAPTER 3

ESTABLISHMENT OF SERVICE RELATIONSHIP

Section 12 *Nature of the Service Relationship*

- (1) The service relationship of the Pastor is of a specific nature and is based on the conclusion of an employment agreement with the Church, which embodies the calling as Pastor.
- (2) The appointment shall be for an initial period of six years. Six months before the end of this period, the Pastor may apply in writing for a new permanent employment agreement. If this is not granted, the service relationship ceases on the date on which the initial employment agreement ends. The rights of a Pastor who commenced his service prior to 1 October, 1993 remain unaffected by this provision.
- (3) The calling of a Pastor includes the assignment to him of:
 - (a) a Pastor's post; or
 - (b) a general church task.

Section 13 *Induction*

The Pastor with whom an employment agreement has been concluded shall be inducted into his post during a worship service.

Section 14 *Calling to the Post*

- (1) The calling as Pastor becomes effective with the date recorded in the Certificate of Calling. As a rule the certificate is handed over during the induction service.
- (2) The certificate shall record the calling as Pastor as well as the parish or the general church task he has been assigned to, the seat of the parish and his official title.

Section 15 *The Appointment*

In the employment agreement between the Church and himself the Pastor pledges himself to conscientiously adhere to the Church's Laws and to the fulfilment of the obligations arising there from. If the appointment is limited to a particular time period in terms of Section 12(2), then this shall also be recorded.

Section 16 *Revocation of Appointment*

- (1) The appointment may be revoked if it has been brought about by deception or in any other dishonest manner. The right to take disciplinary action remains unaffected.
- (2) The revocation must be declared within six months of the reason for the revocation becoming known. The Pastor shall be given a hearing.
- (3) Prior to the revocation the Pastor may be suspended temporarily from carrying out his duties. This provision is not subject to a review according to section 31.
- (4) The effect of the revocation is to nullify the service relationship from its inception. Reimbursement of remuneration already paid may be waived.
- (5) In addition to the revocation of the appointment, the right to public preaching and the administration of sacraments may also be revoked.
- (6) The revocation does in no way affect the validity of the official functions already performed by the Pastor concerned.

CHAPTER 4

DUTIES OF THE PASTOR

Section 17 *Within the Congregation*

- (1) It is the duty of the Pastor, to whom a Pastor's post has been entrusted, to preach the gospel publicly and to administer the sacraments within that congregation.
- (2) His assignment obliges the Pastor to lead worship services, to perform official duties and to provide religious instruction and pastoral care. It also comprises duties, which flow from structured joint actions between his congregation and others.
- (3) The Pastor, together with the congregation, shall endeavour to discover talents within it, to encourage and equip congregation members to become co-workers, so that their services may develop freely in cooperation with congregational councillors and other co-workers for the advancement of life and growth within the congregation.

- (4) Together with them the Pastor shall ensure that the will to perform missionary work and to accept ecumenical responsibility is awakened, that charity and Christian stewardship as well as church ministries are promoted.
- (5) The Pastor and the congregational council perform their duties in cooperation with each other and ensure that the solidarity within the congregation is sustained and strengthened.
- (6) The Pastor shall conscientiously carry out the tasks entrusted to him in the administration and management of the Pastor's post, the keeping of church registers and in property and financial matters.
- (7) If there are several Pastors' posts in a congregation, the Pastors have equal status as far as public preaching and administration of sacraments is concerned. Section 17(5) applies mutatis mutandis. If no consensus can be found, Church Council determines the allocation of duties.
- (8) The Pastor shall minister to all members of his congregation.
- (9) The Pastor may only perform official duties on behalf of members of other Lutheran congregations if the Pastor in charge of the relevant congregation has consented thereto.
- (10) For worship services and for the performance of other official duties in other congregations the prior approval of the Pastor of that congregation is required.
- (11) In emergencies, especially in the face of death, every Pastor is entitled and obliged to render immediate service. He must thereafter report this to the Pastor concerned.

Section 18 ***In a General Church Post***

- (1) The Pastor, to whom a general church task has been assigned, is obliged to perform the duty of public preaching and administration of the sacraments within the ambit of this task.
- (2) Where a general church task has been assigned to him, the Pastor shall perform this task to achieve both, the growth of the Church as well as that of the individual congregation.
- (3) The Pastor may be given the task of conducting worship services within a specific congregation.
- (4) In all other cases concerning worship services and official duties, the provisions of sections 17 (8) to (10) apply.

CONDUCT OF THE PASTOR

Section 19 ***Within the Fellowship of Ordained Ministers***

- (1) Pastors are in fellowship with those to whom the office of the church has been entrusted through ordination.

- (2) They shall foster this fellowship. In teaching, in the ministry and in life they shall be prepared to counsel and admonish one another.
- (3) Pastors are obliged to attend regular Pastors' Conventions or similar institutions and to participate in activities, which promote in-service theological and practical training.
- (4) Pastors are obliged to continually improve their knowledge, especially by theological reflection in the Pastors' Conventions, by participation in training courses and through study at home. For this purpose the Pastor's superior may grant him leave of absence of two weeks per year.

Section 20 ***Within the Congregation***

- (1) The Pastor is dependent on the intercession, advice and assistance from the congregation.
- (2) The Pastor is obliged to maintain unswerving secrecy of confession against everyone.
- (3) The Pastor shall maintain confidentiality on all matters entrusted to him or of which he became aware in his capacity as spiritual counsellor. If he is released from the bond of secrecy by him who sought his counsel in cases, which did not result in a confession or the desire for absolution, the Pastor shall nevertheless carefully consider whether and to what extent he can justify statements or communications on such matters.
- (4) The Pastor must be prepared to take upon himself disadvantages which may arise from the secrecy of confession and the duty to maintain confidentiality according to paragraph (2) and (3) above.
- (5) The Pastor is bound to secrecy on all matters he otherwise becomes aware of during the exercise of his duties, which are confidential by nature or as a result of special instructions, except where Church Council has released him from the bond of secrecy. This also applies where an employment relationship no longer exists.
- (6) The Pastor is obliged to reside at the official residence provided by the congregation. With the approval of Congregational Council and Church Council, exceptions may be granted if special circumstances can be shown to exist.
- (7) The Pastor may only allow third parties to use portions of the official residence with the approval of Congregational Council. No one, not even a member of the Pastor's family, may carry on a business or an occupation from the official residence without approval of Congregational Council.
- (8) If the service relationship is changed or terminated the official residence shall be vacated.

- (9) As a rule the Pastor shall wear the official garments of office, namely the robe and the alb and stole, during worship services and at official functions. After consultations between the Pastor, Congregational Council and the congregation the Pastor may conduct services without these official garments. The clothes he wears shall be suitable for the occasion and shall serve the proclamation of the Gospel.
- (10) The independence of the Pastor and the reputation of the office may not be compromised by the acceptance of gifts. It is therefore not permitted for the Pastor to accept gifts for himself if they exceed the local customary standards. If special circumstances exist, the Bishop may, by exception, give his approval.

Section 21 ***Within the Church***

- (1) The Pastor shall carry out all instructions pertaining to his ministry issued to him by the leaders and supervisors of the church acting within the ambit of their duties.
- (2) The Pastor should accept special tasks, which accord with his educational background and calling.
- (3) The Pastor is obliged to deputize for another Pastor, even if it is outside his geographic area of ministry, particularly where the latter is ill or on leave. This also applies where a congregation is vacant.
- (4) The Pastor is obliged to remain within his geographic area of ministry. Sections 37 to 43 of this law provide for occasions, other than leave, when he may be absent from his area of ministry.
- (5) If the Pastor is absent without leave, he may be declared to have forfeited his right to emoluments for the duration of his absence. The right to institute disciplinary proceedings remains unaffected.
- (6) If the service relationship is amended or terminated the Pastor shall hand over all official documents and objects of whatever nature, which may be in his possession and shall account for the administration of any assets entrusted to him. If the Pastor dies, his deputy or successor shall cause these records to be handed over to him. The questionnaire for official handing over shall be completed.
- (7) The Pastor shall preserve the dignity of office at all times.

Section 22 ***In Marriage and Family***

- (1) The Pastor's life in marriage and family must conform to his calling.
- (2) The Pastor shall notify Church Council forthwith of his intended marriage and wedding ceremony.

- (3) If reservations, based on lack of regard for his calling or his congregation are raised against the proposed marriage of the Pastor, then, with his agreement, his service is to be arranged in a way, which agrees with his calling and is acceptable to the congregation.
- (4) If the Pastor or his spouse deems the institution of divorce proceedings as inevitable, he is obliged to inform the Bishop forthwith. The latter, or someone delegated thereto by him, shall endeavour to reconcile the spouses.
- (5) If divorce proceedings are instituted, the Pastor must report this to his superior forthwith. In as far as it may be relevant to establish how this will affect the execution of his duties further information and documents may be called for. The Pastor is obliged to consent to this, to give explanations himself as well as to produce, on demand, documents in his possession.
- (6) With effect from the day that the divorce becomes final, Church Council may terminate the employment relationship, if continued employment would be detrimental to the congregation or the Church.
- (7) During the divorce proceedings and until the divorce becomes final in accordance with paragraph (6) the Pastor may be relieved temporarily of all or part of his duties. Another appropriate duty may be assigned to him during this period. The Pastor is entitled to be given a hearing. A review in terms of section 31 does not suspend these provisions.
- (8) If application is made to declare the marriage null and void the provisions of paragraph 22(4) to 22(7) apply mutatis mutandis.

Section 23 *In Public*

- (1) The Pastor may accept an additional engagement outside of his official duties only if it is consistent with his calling and the conscientious performance his official duties.
- (2) The acceptance of such an engagement, whether honorary or against payment or on the basis of profit sharing, requires the prior consent of Church Council which may be withdrawn at any time. This provision includes the acceptance of guardianship, trusteeship or executorship.
- (3) A literary, scientific, artistic or a lecturing activity does not require prior consent. This applies equally to taking over honorary positions in corporate bodies, institutions, societies or clubs whose objects are to serve church, welfare, artistic, scientific, cultural or occupational purposes. The Pastor is, however, obliged to notify Church Council of having taken over such functions. The continuation of such activities may be denied, wholly or in part, if they detrimentally affect the ministry.

- (4) The Pastor may not support an organization or institution if this were to conflict with his calling or if the support would materially affect the performance of his duties.
- (5) The Pastor's political activities shall also correspond with his calling. He shall serve each congregation member equally, irrespective of his political persuasions. He needs to recognize the limitations, which the above may have on the nature and extent of his political activities.
- (6) The Pastor must recognize that his utterances on matters of public interest may reflect on the congregation and the entire Church, and that in the mind of the public, a person and his office are inseparable.
- (7) The Pastor shall refrain from all party political activities. Should he nevertheless assume party political positions or mandates, he will be relieved of his duties for that period.

VISITATION AND SUPERVISION

Section 24 *Visitation*

- (1) The Pastor is obliged to subject himself to visitations. He has a right to expect support from the visitation.
- (2) The Church, through its leaders and supervisors, provides a special service to Pastors and congregations, by means of the visitations. The visitation covers the life of the congregation, the manner in which Pastor and Congregational Council perform their duties and how they conduct themselves. The visitation is intended to promote the spiritual life of the congregation, to advise and motivate the Pastor, to preserve good order in the church and to strengthen its unity.
- (3) Further particulars are contained in the Congregational Code.

Section 25 *Supervision*

- (1) The aim and purpose of supervision is to motivate the Pastor in the performance of his duties, to counsel him, to instruct, admonish and if necessary, to discipline him. This is done by his immediate superior in terms of section 37(3).
- (2) The Pastor may be suspended for a maximum of three months without forfeiture of emoluments if it appears from such supervision and on cogent grounds that for the sake of the office, such action is necessary. He may be prohibited partially or totally from performing his duties. The Pastor is entitled to a hearing. A review in terms of section 31 does not suspend the provisions of this section.

- (3) If the Pastor, in performing his duties, culpably inflicts damage on the Church or one of its congregations, he shall be liable to compensate such entity for any damages that may arise. If several Pastors cause damage jointly, they are jointly liable.

Section 26 ***Violation of Doctrine***

- (1) The ordination obliges the Pastor to preach the Gospel in its purity in accordance with the Confession of the Evangelical Lutheran Church and to administer the sacraments according to the Gospel.
- (2) The doctrine is violated where the Pastor's public utterances or writings on the presentation of Christian teaching or his performances of worship services are in conflict, in material respects, with the Confession of the Evangelical Lutheran Church referred to in sections 3(1) and 9(3).

Section 27 ***Misconduct***

- (1) Obligations concerning the duties and conduct of the Pastor arise from the office of the church and the employment relationship.
- (2) The Pastor is guilty of misconduct if he neglects the duties which arise from his calling to preach the Gospel and to administer the sacraments, or if the rules and instructions concerning his conduct and his administrative tasks are not adhered to, or if he violates the commitment to lead a life conforming to the office. The procedures and legal consequences of violating these duties are determined by Church Council in terms of section 28.

Section 28 ***Consequences of Violation of Doctrine and Misconduct***

- (1) A committee appointed by Church Council shall decide whether the doctrine is violated or whether misconduct exists and what the legal consequences thereof shall be. An appeal against the decision of this committee may be made to the Church Council of the UELCSA. UELCSA shall appoint a committee to decide the appeal. Subject to the provisions of Section 57(10) and (11), this decision shall be final.
- (2) The Pastor shall be given a fair and proper hearing. He is entitled to be assisted by an ordained confidant from within the United Church.

CHAPTER 5

PROTECTION AND SECURITY

Section 29 ***Protection against Attacks***

Church Council shall protect the Pastor against acts, which may impede his duties, and against unjustified attacks against his person.

Section 30 **Personnel Records**

- (1) Personnel records are to be established for every Pastor. They are administered by the Bishop. They are classified as confidential and must be protected against unauthorized use.
- (2) All documents concerning the Pastor in so far as they deal with his employment relationship shall form part of the personnel records.
- (3) Personnel records may only be used for personnel management.
- (4) The Pastor shall be informed in writing of any appraisals, accusations or complaints before they are taken up in the personnel records. Any comments thereon by the Pastor shall also form part of the records.
- (5) The Pastor shall have the right to inspect his own personnel record.

Section 31 **Review of Administrative Decisions**

The Pastor may have administrative decisions affecting his legal position reviewed by a mediation committee appointed by Church Council.

REMUNERATION AND SOCIAL SECURITY

Section 32 **Remuneration**

- (1) The Pastor has the right to appropriate support for himself and his family, specifically by way of remuneration and provision of social security.
- (2) The remuneration is paid by the Church as employer.
- (3) Remuneration is paid to the Pastor with effect from the date determined by the Certificate of Calling, or if he had already been appointed to a post in either the UELCSA or the Evangelische Kirche in Deutschland (EKD), with effect from the date on which he enters into a service relationship with the Church.
- (4) The remuneration package consists of:
 - (a) basic salary;
 - (b) free housing;
 - (c) official motor vehicle; and
 - (d) child allowance.
- (5) The Bishop and the Deans receive an official allowance from the Church for the duration of their terms of office.

Section 33 **Housing**

- (1) An official residence shall be provided, or if that is not available, a similar type building belonging to or rented by the Church.

- (2) The congregation is responsible for the maintenance of the official residence and bears all costs levied against the property.
- (3) If a garden exists, the congregation maintains it.
- (4) The Pastor is obliged to treat the dwelling with due regard to the purpose for which it is intended.
- (5) The official residence shall conform to the needs of the office of the Pastor, whose services consist of preaching, pastoral care and teaching and as these are largely of intellectual nature, they require tranquil surroundings. Apart from this the locality and the family circumstances of the Pastor are to be taken into account.
- (6) The congregation shall equip the official residence with the following basic furnishings:
 - (a) complete furnishing of the office, including computer, modem and printer;
 - (b) lights, stove and kitchen cupboards.
- (7) If the Pastor has been seconded for a specific period of time, the basic furnishings shall also include appropriate furnishings like a washing machine, refrigerator and curtains.
- (8) The provision of the official residence shall furthermore include:
 - (a) the cost for supply and consumption of water and electricity;
 - (b) a telephone for official calls. The Pastor pays for private calls.

Section 34 *Motor Vehicle*

- (1) As a rule, the congregations provide the occupant of a Pastor's post with a vehicle of the middle class to carry out his official duties. In determining the type and size of the vehicle, the circumstances of the congregation and the personal circumstances of the Pastor and his family shall be taken into account.
- (2) The congregation shall bear all costs of purchasing and maintaining the vehicle.
- (3) The motor vehicle is to be used for official purposes. If the Pastor uses the vehicle for private purposes, then:
 - (a) such private use is taxable;
 - (b) he is responsible for fuel costs for trips exceeding a radius of 50 km.
- (4) If the Pastor uses the motor vehicle for official duties other than for the congregation, then the party initiating such trip shall reimburse the congregation according to the rates fixed by Church Council.

- (5) Church Council may grant exceptions to the provisions of this section.

Section 35 *Child Allowance*

- (1) The Pastor is entitled to receive a child allowance according to the applicable salary scale of the ELCSA (N-T) for natural or adopted children as well as for step children that have been taken into his home.
- (2) No child allowance is paid for married, widowed or divorced children.
- (3) Child allowance is granted until the child has reached the age of 25. After the child has reached the age of 18 child allowance may only be claimed if the child is at school or receives occupational training and is not in receipt of a salary, remuneration or financial support in excess of the child allowance.
- (4) If schooling or occupational training extends beyond the age of 25 through no fault of the Pastor or the child, then child allowance is paid for the proven period of such extension.
- (5) If a child is permanently unable to work as a result of physical or mental disability child allowance is paid irrespective of the age of the child if the disability became apparent before it reached the age of 25 or if it became apparent within the period of extension in terms of paragraph (4).
- (6) After the child reaches the age of 18 child allowance will only be paid if the child's income does not exceed three times the monthly child allowance.
- (7) Child allowance is paid at the end of the month during which the right to claim the allowance arises. If the right to claim the allowance falls away, the payment of the allowance will be stopped at the end of the month during which the right to the claim fell away. Only one child allowance per child may be granted.
- (8) The Pastor must inform Church Council immediately of any changes to the conditions, which might influence the payment of child allowance.

Section 36 *Social Security*

- (1) The provision of social security to the Pastor embraces the following:
 - (a) Old age pension;
 - (b) Pension for surviving dependants;
 - (c) Accident insurance cover.

- (2) The claim to old age pension and pension for surviving dependants is met by the ELC Pension Fund. The Pastor is obliged to become a member of the ELC Pension Fund. In the case of a seconded Pastor different arrangements may be made.
- (3) The Church provides accident insurance cover for all Pastors.

LEAVE

Section 37 *General Provisions*

- (1) The Pastor and candidates for the Pastor's post are granted leave of absence in the following instances:
 - (a) absence on official duties;
 - (b) sick leave;
 - (c) annual leave;
 - (d) absence for personal reasons;
 - (e) maternity leave;
 - (f) long leave;
 - (g) study leave.
- (2) Leave is granted on application and should not be taken within six months of commencement of employment in a particular Pastor's post. The applicant must specify how his duties have been arranged for the period of his leave.
- (3) Application for leave of a Pastor is granted by the Dean of his circuit and in the case of Deans and Pastors who serve in general church tasks, application for leave are granted by the Bishop.
- (4) Application for leave and the Dean's decision thereon is reported to the Bishop.
- (5) If the Pastor has relocated, up to six calendar days leave will be granted on application. This leave shall not be recorded as annual leave.
- (6) The Pastor is entitled to one day off per week. He must arrange this with his Congregational Council, and the congregation shall be advised accordingly.

Section 38 *Absence on Official Duty*

- (1) Where the absence on official duty does not exceed three days, the Pastor merely informs his immediate superior.
- (2) Where the absence on official duty exceeds three days, the Pastor must make application for leave to his immediate superior in terms of section 37(3). In the application is refused, the applicant may appeal to Church Council for a decision.

Section 39 Sick Leave

- (1) The Pastor is entitled to apply for sick leave of up to 120 calendar days during a cycle of three years on full pay and thereafter for another 120 calendar days on half pay. In exceptional cases Church Council can extend this period by up to 30 calendar days.
- (2) If sick leave referred to in section 39(1) exceeds three calendar days the Pastor shall submit a medical certificate together with his application.

Section 40 Annual Leave

- (1) Annual leave with full pay will be granted on the following basis:
 - (a) up to the 40th birthday - 32 calendar days;
 - (b) thereafter up to the 50th birthday - 36 calendar days;
 - (c) after the 50th birthday - 42 calendar days.
- (2) Annual leave should be taken consecutively whenever possible. It should not be taken during high festive seasons.
- (3) The annual leave cycle is the calendar year. Annual leave shall not be accumulated. The immediate superior may grant exceptions for official reasons.
- (4) If the employment relationship begins or ends during the course of a particular year, pro rata leave will be granted.

Section 41 Absence for Personal Reasons

- (1) Where absence for personal reasons does not exceed three days, the Pastor merely notifies his immediate superior. This will be referred to as family responsibility leave in terms of the Basic Conditions of Employment Act, (Act 57 / 1997).
- (2) If the absence lasts longer than three days, application for leave must be made and it shall be recorded as annual leave.
- (3) Repeated absence for personal reasons in accordance with paragraph (1), up to a maximum of 10 days per year, shall not be recorded as annual leave.

Section 42 Maternity Leave

- (1) A female Pastor is entitled to maternity leave of four months with full benefits.
- (2) All rights arising from the service agreement remain unaffected.

- (3) If the Pastor concerned is entitled to maternity benefits from any other source, the payments by the Church shall be reduced accordingly.
- (4) Church Council shall arrange a deputy for the Pastor for the duration of her maternity leave.

Section 43 *Long Leave*

- (1) After each completed cycle of six years service, Church Council shall grant long leave on full pay for three months, including one month annual leave, for the purpose of furthering the Pastor's studies. Section 40(1) shall not apply for that year.
- (2) If the studies referred to in paragraph (1) take place in Germany, the special provisions referred to in section 61, as well as by any relevant contracts or agreements between the EKD and the ELCSA (N-T) shall apply.
- (3) The leave to further the Pastor's study may also be taken in South Africa or in any other country.
- (4) In principle the ELCSA (N-T) does not accept additional financial responsibility for this leave, but subsidies may be applied for.
- (5) Church Council may make exceptions to this rule.

Section 44 *Study Leave*

- (1) Study leave on full pay may be granted up to a maximum of 10 days per year.
- (2) As a rule, study leave taken during any year, shall exclude further study leave being taken during the same leave cycle. Participation in additional study trips or training courses in the same year shall only be approved if they take place at the express direction of a congregation or the Church.

CHAPTER 6

CHANGES TO THE SERVICE RELATIONSHIP

Section 45 *Transfer to another Post or Duty*

- (1) The Pastor may only be transferred to another post or general church task on application or with his consent.
- (2) As a rule the period of service of the Pastor in one congregation shall be a minimum of six years. Six months notice should be given prior to an intended change. The Bishop or a Dean, delegated thereto by him, shall discuss the continuation of the Pastor's service, if he has already served in the same congregation for eight years.

- (3) A Pastor who has been given a general church task may be transferred in terms of section 49.
- (4) The period served as Pastor coll. may be added to the minimum period referred to under paragraph (2), if this was served in the same congregation.

Section 46 *Transfer on Application or with Consent*

- (1) If the Pastor has been transferred to another post on his application or with his consent, then the provisions of section 12(3) and section 14 apply.
- (2) As a rule an induction in terms of section 13 is not required if the Pastor has been transferred to another post within the same congregation.

Section 47 *Transfer for General Reasons*

- (1) The Pastor may be transferred without his application and without his consent if:
 - (a) he has served in the same congregation for at least eight years, has not reached the age of 59 and the congregational council agrees to the transfer;
 - (b) if the tenure of a supervisory post attached to the congregation comes to an end;
 - (c) if the Pastor's post is dissolved or is intended to remain vacant;
 - (d) if his marriage is dissolved by law, or when the spouses have separated and it can be assumed that they have no intention of returning to one another, and if the continued employment in the present post would be detrimental to the congregation.
- (2) If the Pastor has already served in a congregation for 12 years he shall be transferred. However, one extension is possible if the Pastor, the Congregational Council and Church Council agree thereto. The period of extension shall be determined, however shall not exceed 6 years.
- (3) The transfer in terms of paragraph (1)(a) is initiated either by the Congregational Council or by the Visitor or by Church Council. In all other cases Church Council initiates a transfer.
- (4) The Pastor, the Congregational Council and Visitor shall be consulted before a transfer takes place.
- (5) The personal circumstances of the Pastor shall be taken into account.
- (6) The Pastor shall be reimbursed by the Church for approved relocation costs.
- (7) A transfer in terms of section 46 shall only be finalized if the Pastor has received prior opportunity to apply for another post within a reasonable period of time.

- (8) If the Pastor neglects to make an application in terms of paragraph (7), or if it cannot be finalized within the given period of time, the Pastor shall be transferred. A general church task may be assigned to him.
- (9) If The Pastor refuses to be transferred, his services may be terminated.

Section 48 *Transfer as a Result of Ineffectual Endeavours*

- (1) The Pastor may be transferred without his application and without his consent if in the opinion of Church Council; beneficial endeavours in the existing post or supervisory position attached to that post can no longer be assured. This need not be the Pastor's fault.
- (2) Prior to the intended transfer the Pastor shall be given a fair and proper hearing. The Congregational Council and the responsible Dean shall be consulted.
- (3) The Pastor's personal circumstance shall be taken into account.
- (4) The Pastor shall be reimbursed by the Church for approved relocation costs.
- (5) In cases where paragraph (1) applies, investigations shall be carried out to ascertain the facts. Investigations in terms of section 55(3) may be instituted. Efforts to re-establish beneficial endeavours shall be made.
- (6) If, after consulting with all parties involved, the investigations reveal that the conditions prescribed by paragraph (1) apply, the Pastor shall be furnished with a written notice giving reasons for the necessity of a transfer.
- (7) After the investigations have been instituted, and if circumstances demand this, the Pastor may be suspended from duty, either wholly or partially. He shall be notified in writing, giving reasons therefore. The Pastor may receive an appropriate assignment during this period. This decision is not subject to review in terms of section 31.
- (8) If the conduct of the Pastor forms the basis of the investigations in terms of paragraph (1) the right to institute proceeding for breach of official duties remains unaffected.
- (9) The Pastor will be temporarily suspended from duty with effect from the time that the notice in terms of paragraph (6) comes into force. His remuneration shall continue to be paid for up to six months.
- (10) Church Council shall endeavour to transfer the Pastor to another post within this period.
- (11) If it is anticipated that effective endeavours will also not be achieved in another congregation or in a general church task, the service agreement may be terminated.

Section 49 *Transfer to a Post with General Church Duties*

- (1) The Pastor, who has been assigned a general church task, may be given another task of a similar nature or a vacant post, should this be in the interest of the Church. The Pastor shall be consulted prior to his transfer.
- (2) The Pastor's right to apply for a post remains unaffected.

Section 50 *Secondment*

- (1) The Pastor may be seconded to the United Evangelical Lutheran Church in Southern Africa or to another Lutheran Church without loss of accrued rights.
- (2) The secondment requires the Pastor's agreement if it exceeds six months duration. In any event, if the Pastor is serving a congregation, the Congregational Council shall first be consulted.
- (3) The relevant churches shall agree on the details of the secondment and to what extent, if any, the church seconding the Pastor shall contribute to the social security of the Pastor.

Section 51 *Release from Duty in the Interest of the Church*

- (1) The Pastor may apply or consent to be released from his normal duties to assume another church task or tasks in the interest of the Church. The period for which the release is sought may be limited or unlimited.
- (2) Simultaneously with the release, a decision shall be taken on whether the Pastor will retain or lose the Pastor's post or the general church task, as well as emoluments for the duration of his release. All rights and obligations accrued prior to the release shall be retained.
- (3) When the Pastor returns he will, wherever possible, be placed in a position similar to his former activities. The period of secondment shall be added to his service period for purposes of calculating his emoluments and social benefits.
- (4) Unless otherwise agreed, the Pastor shall, in his new position in matters of teachings of the Church, be subject to the supervision of the ELCISA (N-T), the official duties and its 'Guidelines for the Church Life'.

Section 52 ***Release from Duty for Personal Reasons***

- (1) The Pastor may apply to be released from his duties for a period of three years if:
 - (a) he shares a communal life with 1 child under the age of 6 years or at least 2 children under the age of 10 years and actually cares for them;
 - (b) other pressing family reasons exist;
 - (c) other personal reasons require this.

The post as well as the emoluments is lost for that period. The release may be extended on application, provided that such application is made six months before the original period expires. Prior to the release, the consequences referred to in paragraph (2) and (3) below shall be pointed out to the Pastor.

- (2) The Pastor who is released in terms of this section is obliged to apply for a posting to a congregation or general church task well in advance of the end of the period. Should his application have failed by the time the period expires, then he may officially be transferred to a Pastor's post or a general church task. Should he fail to apply or should he fail to take up the assigned post, his services will be terminated in terms of Section 58(11).
- (3) If there is no vacant post for the Pastor, the leave of absence shall be extended until a transfer to a post is possible.
- (4) The obligations referred to in section 19(4) are not affected by this leave of absence.

Section 53 ***Take-over by a Member Church of UELCSA***

- (1) If the Pastor leaves his position in the ELCSA (N-T), upon his application or with his consent, to take up a ministry in a member church of UELCSA, the employment relationship shall continue with that member church. The rights and obligations arising from the existing relationship are replaced by those of the member church. Sections 14 and 15 apply.
- (2) The take-over shall not diminish the Pastor's existing rights.
- (3) The relevant churches shall agree on the details of the date of take-over and to what extent, if any, the church from which the Pastor is taken over shall contribute to the social security of the Pastor.

RETIREMENT

Section 54 *General*

- (1) The Pastor may only be retired in accordance with the laws of the Church.
- (2) The retirement is preceded by a written notice setting out the date on which the retirement shall come into effect. This date may not be earlier than the date of delivery of the notice.
- (3) The Pastor shall add "retired" (ret.) or "emeritus" (em.) to his previous title.
- (4) The Pastor shall retire with effect from the end of the month in which he turns 65 years of age.
- (5) A Pastor, who has reached the age of 60, may be officially retired.
- (6) The date upon which the Pastor commences his retirement may be postponed, on application or with his consent, until he has reached the age of 68. In this regard his service relationship shall be re-confirmed annually by Church Council.

Section 55 *Retirement due to Incapacity*

- (1) The Pastor shall, officially or on his application, be placed on retirement, if he has become permanently incapable of fulfilling his official duties as a result of physical disability or as a result of physical and mental weakness or if in the opinion of Church Council, beneficial endeavours in a Pastor's post are no longer possible.
- (2) The Pastor may be declared permanently incapable of fulfilling his official duties if during a period of six months he has been ill for more than three months without having performed any duties, and there appear to be no prospect of him resuming such duties within a further six months.
- (3) If doubts exist about the Pastor's incapacity he is obliged to undergo medical examinations and observations and to release the doctors from their bond of secrecy. Church Council may demand a medical report. The institution ordering the examination shall bear the costs.
- (4) If the Pastor is to be retired in terms of this section, he shall be given notice to this effect and shall be called upon to lodge objections within a period of not less than four weeks.
- (5) If no objections are lodged within the time stipulated, the Pastor shall be retired. If objections are lodged within the period stipulated, the necessary conclusions are reached through a process by which a medical report is obtained and the Pastor is given an opportunity to present his case. The Congregational Council as well as the responsible Dean are to be consulted.

- (6) If it appears that the Pastor is unable to exercise his rights due to physical or mental disability he shall be given assistance, preferably with the consent of his family, provided that no legal curator or guardian has yet been appointed.
- (7) The Pastor may be prohibited from carrying out his duties, wholly or partially, for the duration of the investigation if this is deemed essential for the sake of office. This provision is not subject to review in terms of section 31.
- (8) If the capacity of the Pastor to perform his duties is confirmed, the investigation is to be terminated. If the investigation results in the retirement of the Pastor within a period of three months from the end of the period referred to in paragraph (4) above, then the retirement commences at the end of the 3-month period. If the investigation takes longer, the retirement commences on a date to be decided by Church Council, but not later than at the end of the month in which the decision is conveyed to the Pastor.
- (9) The decision to retire the Pastor is taken by Church Council.

Section 56 *Retirement and Service Relationship*

- (1) Upon retiring the Pastor is released from his official duties. The rights and duties bestowed by his ordination remain. As a result he remains under the supervision and jurisdiction of the Church as contemplated in sections 26 to 28.
- (2) Restrictions on exercising the right to preach and to administer the sacraments may be imposed on a retired Pastor if considerations of office and congregation necessitate this.
- (3) The retired Pastor receives a pension in accordance with the provisions of the ELC Pension Fund.
- (4) The Pastor shall be reimbursed for reasonable relocation costs within the boundaries of the Church. If he relocates to beyond such boundaries, he shall be reimbursed for approved relocation costs up to such boundaries.
- (5) If the Pastor regains the ability to perform his duties before he reaches the age of 65 he may apply to be posted to a Pastor's post or a general church task. In this case he shall be reimbursed for approved relocation costs.

CHAPTER 7

TERMINATION OF THE SERVICE RELATIONSHIP

Section 57 *General*

The service relationship with the Pastor is terminated by:

- (a) release from service;
- (b) resignation from service;
- (c) removal from service;
- (d) termination of the service agreement;
- (e) death of the Pastor.

Section 58 *Release from service*

- (1) The Pastor may apply in writing to Church Council, giving reasons, to be released from service.
- (2) The application shall be granted subject to the provisions of section 58(11). The release may be delayed until all official duties have been handed over according to the rules of the Church.
- (3) The Pastor's release shall be confirmed to him in writing. The release shall become effective on the date mentioned in the notification.
- (4) The Pastor may withdraw the application for release from service provided the notification in terms of paragraph (3) has not come into force.
- (5) If the Pastor applies for his release in order to assume duties in a Pastor's post or general church task within a member church of the UELCSA or in order to assume duties in another Lutheran Church, and does not thereby abandon the commission given him at his ordination, then he may retain the right to public preaching and to administer the sacraments.
- (6) During or after his release the Pastor may renounce his right to public preaching and to the administration of the sacraments. He shall advise Church Council in writing of the renunciation, which shall be confirmed.
- (7) If paragraphs 1 to 4 apply, the Pastor loses all rights to and qualifications for any emoluments or pension benefits, which arose from his service relationship, unless a church law or rules of the ELC Pension Fund provide differently, or unless other arrangements can be made.

- (8) If the Pastor applies for release from service in order to abandon his office and commission, he loses the right to public preaching and to administer the sacraments, as well as the right to use the clerical title or any other titles bestowed by the Church, and the right to wear the robes of office.
- (9) Furthermore, the Pastor loses all rights to and future interests in any emoluments or pension benefits for himself and his dependants unless the rules of the ELC Pension Fund provide differently.
- (10) Church Council may dismiss the Pastor if it this can be substantiated by operational requirements of the Church. The provisions of section 58(2) and (3) apply.
- (11) In regard to the paragraph (10) above Church Council may decide not to withdraw the right to public preaching and administering of the sacraments, or the right to use clerical titles or titles bestowed by the Church, or the right wear the robes of office.

Section 59 *Resignation*

- (1) The Pastor is deemed to have resigned from service:
 - (a) if he declares to have resigned from the Evangelical Lutheran Church or has converted to another religious community;
 - (b) if he renounces the right to public preaching and administering of sacraments;
 - (c) if he leaves the service under circumstances, which indicate that, he is not likely to return.
- (2) If paragraph (1) applies, the Pastor loses the right to public preaching and administering of sacraments. He also loses the right to use clerical titles or titles bestowed by the Church, the right to wear the robes of office and all rights to and qualifications for emoluments or pension benefits for himself and his dependants, unless the rules of the ELC Pension Fund provide differently.
- (3) Church Council shall confirm the resignation in writing, specifying reasons. The date of resignation is to be recorded therein and it shall refer to the legal consequences of paragraph (2) hereof. The notification is to be delivered to him.

Section 60 *Removal from Office*

- (1) Church Council may remove the Pastor from service if the committee established by Church Council under section 28 or by the appeal committee established by the Church Council of UELCSA, has decided on this course of action.

- (2) The removal from office can only be effected if it concerns the conduct or lack of suitability of the Pastor. The decision is taken by Church Council on recommendation of the Ecclesiastical Council. Section 58(9) shall apply.

CHAPTER 8

FINAL PROVISIONS

Section 61 Right to approach SA Labour Courts

- (1) In regard to the service relationship, the laws of the country apply, especially the Labour Relations Act 66 of 1995 and the Basic Conditions of Employment Act 75 of 1997 (as amended).
- (2) The right to approach the courts of the country is available only if the remedies under this law have been exhausted.

Section 62 Agreements with EKD

Special provisions concerning Pastors who have been seconded in terms of agreements with the EKD arising out of the 'Auslandsgesetz 1954' and the 'Ökumenegesetz Januar 2000' remain unaffected by this Law.

Section 63 Commencement Date

This Law shall come into operation on the 19th October, 2015.