



# Guide to Employment Agreement

## Introduction & Disclaimer

The purpose of this guide is to assist pastors, deacons and congregations in implementing the Employment Agreement. The content of this guide is provided for general information purposes only and does not constitute legal or other professional advice. If you have a specific employment problem or concern, you should consult a competent advisor, either a lawyer, or someone knowledgeable with employment law and employment contracts.

## When to use the Employment Agreement

The Employment Agreement is to be used with the Letter of Call when the position is compensated to a level at or above 25% of YMPE (Year's Maximum Pensionable Earnings) i.e. pension and benefits eligibility test.

## Which document to use

There are a number of variations of the employment agreement; each tailored for the specific circumstance. Please note the jurisdiction; special provisions are required for Quebec and Nova Scotia and so specific documents are available for those provinces. Also determine whether you require an agreement for a pastor or a deacon as versions are provided for each of these cases.

## Whereas

The whereas section is an introductory section that lays out the conditions to enter into an employment agreement.

## Section 1: Prerequisites to Employment

These items must be completed before the agreement becomes active.

- subsection a** • as per current practice, the Bishop of the Synod must authorize all Calls
- subsection b** • while the pastor or deacon can be eligible for the Synod's Roster during the process, the agreement is only effective when the pastor or deacon is on the Synod's Roster
- subsection c** • checks prior to employment are an expense of the candidate
  - checks are preferably current but should at least be dated within the last three years
  - the employee keeps the original and provides the employer with a copy which should be kept in a secure and locked personnel file at the location of the congregation
  - a copy of the checks shall be provided to the Synod office
- subsection d** • the sexual abuse acknowledgement form must be provided to the Synod office with the Letter of Call

## **Section 2: Ongoing Obligations of the Pastor or Deacon & the Congregation**

- subsection 2a** • while it is the employee's responsibility to notify the congregation if they are removed from the Roster, the Synod Bishop will also endeavour to notify the congregation
- subsection 2iv** • the employee keeps the original and provides the employer with a copy which should be kept in a secure and locked personnel file at the location of the congregation. A copy shall be provided to the Synod office.
  - current checks should replace the prior checks i.e. only the current check should be retained on file

## **Section 3: Remuneration and Benefits**

- subsection 3a** • complete the blank for the equivalent to full-time. This can be based on the portion of hours compared to full time or the portion of full salary specified in the compensation guidelines
- subsection 3bi** • congregations shall set initial compensation levels with reference to the Synod's salary and compensation guidelines. Note that the salary must be reviewed at least annually, either on the anniversary of the hire date or at annual budget time
- subsection 3bv and 3bvi** • the reference to approved policies is referring to the congregation's personnel policies, which should be consistent, at a minimum, with the National Harmonized Compensation Guidelines.
- subsection 3bvii** • the moving expenses should be reasonable and should be agreed to in advance. Canada Revenue Agency allows deductions for moving expense and this calculation can be used as a guide.
- subsection 3d** • if the congregation is providing a parsonage or other accommodation, it is recommended that the arrangement be documented in detail. A standard form is provided as resource, which may be tailored to each unique situation.

## **Section 4: Scope of Position & Cooperation with the Synod**

- subsection c** • this section was included to create dialogue about expectations and to ensure that the pastor or deacon has adequate time to meet their employment responsibilities and that any additional occupation will not lead to conflicts of interest i.e. selling insurance to parishioners.
  - Note that this is already an expectation in the current By-laws Part IV section 10: *An ordained minister serving under a call shall not engage in an additional occupation without approval of the calling authority and the bishop of the synod. The approval shall not be unreasonably withheld.*

## **Section 5: Confidentiality**

Note: this concept is currently described in the ELCIC Administrative By-laws Part 4 Section 4: *No ordained minister of this church shall divulge any confidential disclosure given in the course of the care of souls or otherwise in a professional capacity, except with the express permission of the person involved, or where required by law, or in order to prevent the commission of a crime.*

- the pastor or deacon must continue to honour the confidentiality post-employment

## **Section 6: Term**

- for current calls, the date that is entered here is the date that all parties have agreed to the terms of this covenant. Please note, however, that previous continuous service with the employer named in the agreement will apply when calculating certain terms in the agreement. i.e. termination notice.

## **Section 7: Notice of Termination Not For Cause**

- section 7b**
- Termination should always be a final resort. Before implementing termination, congregations should explore every possible means of restoring the relationship. The Synod Bishop shall always be consulted in situations of conflict and whenever a congregation is contemplating the possibility of a termination not for cause.
  - the decision to terminate can be made by a 2/3 majority decision of the Congregational Council
  - the notice period in the contract is binding upon a congregation and it exceeds the statutory minimum. The congregation can, however, provide additional notice if desired
  - note the phrase 'commencement of employment' means with the current employer not with any ELCIC employer
  - co-terminous calls require the notice outlined in the agreement if the congregation decides to exercise that option
- section 7c**
- this clause states the notice period that the employee needs to give the congregation

## **Section 8: Termination Other**

- please review the documents noted in this section for further guidance

## **Section 9: Discipline**

- please review the documents noted in this section for further guidance
- it may also be appropriate to refer back to the Sexual Abuse or Harassment Policy, which was referenced in Section 1.d., Pre-requisites to Employment

## **Section 10: Entire Agreement**

- this section reminds the parties that with respect to matters raised in the agreement, this is the entire understanding.
- this agreement does not contemplate any side arrangements that are not consistent with what is in this agreement

## **Section 11: Severability**

- this section confirms that if any specific piece of this agreement is no longer valid for whatever reason, that does not mean that the whole agreement is not valid. It requires that the invalid piece be set aside.

## **Section 12: Governing Law**

- please fill in the blank with the relevant jurisdiction

## **Section 13: Notices**

- this section describes the actual methods by which notice can be given

## **Section 14: Return of Materials**

- while this section describes the standard practice that all material belonging to the congregation must be returned to it, it also has a unique clause that allows pastors or deacons as the original author of anything they create to remain the owner of the copyright of that material. Any revenue from such material belongs to the pastor or deacon.

## **Section 15: Privacy**

- please review the federal and provincial privacy laws and regulations for more information

## **Section 16: Agreement Signed in Counterparts**

- this allows each of the signers to sign independently and fax or scan copies to the other parties

## **Section 17: Timing for Acceptance of the Agreement**

- included in the governing documents of each Synod is a reference to the amount of time a pastor or deacon is to be given to make their decision. The end of that time period should be noted by entering the deadline date in this section, typically 30 days from the Call being issued.

## **Section 18: Legal Advice**

- It is important that all parties have the opportunity to seek advice and explanation so that they understand the commitments that they are making.
- It is expected that the standard form of employment agreement approved by the ELCIC is not to be amended

## **Job Description**

Congregations are encouraged to develop a job description so that expectations are better communicated. Input from and discussion with the pastor or deacon in drafting or updating the job description will serve to improve the document and the success of the relationship. The job description can kept on file with the employment agreement but is not legally binding. The job description should be reviewed periodically and updated as needed.

## **Shared Ministries**

In the case where a pastor or deacon is serving two or more congregations and one congregation is designated as the employer and the other congregation(s) is contracting or seconding the services of that pastor or deacon with the employer, then it is recommended that a formal agreement be entered into in order to document the obligations of each congregation to each other and the pastor or deacon. A resource document of a sample contract is provided.