

## STATUS OF PASTORS UNDER EMPLOYMENT LAW AND PAYE

### **Status under Employment Law**

Until recently, the status of pastors was very clear. They were not regarded as employees, in the normal sense, but as “office holders” and were closer to what could be regarded as self-employed. This meant that they did not come within the scope of employment legislation such as the Employment Act 1978, Working Time Regulations and the National Minimum Wage. However, recent cases involving litigation have created much uncertainty since, when an employment dispute has been taken to a tribunal or to the courts the ruling has been that the pastor was an employee. Whilst those rulings applied only to the specific situation they were addressing, the result has been to create much uncertainty. Eventually, the Government may be forced to legislate in this area. In the meantime, the historical position still stands, subject to the uncertainty that there now is.

The anomaly is that pastors are regarded as employees under Her Majesty’s Revenue & Customs (HMRC) and Social Security regulations (see below), but as self-employed in respect of income arising from other sources (such as preaching fees received from other churches).

### **Terms and Conditions of Service**

Assuming that a pastor is not an employee, he cannot be given a contract of employment. However, an exchange of letters setting out the agreement between the pastor and the church is advisable. This should deal with matters that might have been included in a contract of employment if it were appropriate. Churches might wish to consider such matters as:

- Anticipated hours of work
- Number of permitted Sundays “off”
- Number of permitted Sundays preaching elsewhere
- Holidays
- Expected duties to be performed
- Use of manse or other accommodation arrangements if the pastor owns his own house
- Stipend and arrangements for review
- Pension arrangements
- Sickness arrangements
- Reimbursement of expenses
- Arrangements for termination, either way

The above suggestions are given for guidance only. It is the responsibility of church officers to decide their view on the matters that are, or indeed are not, listed above.

**Status under PAYE**

Pastors and assistant pastors are regarded as employees under HMRC regulations in respect of income arising from their duties connected with their church. The church treasurer is therefore responsible for maintaining PAYE records and for deducting Income Tax and National Insurance Contributions from the pastor's salary. Furthermore, he is legally responsible for forwarding those deductions (and the related employer's NI contribution) to the Collector of Taxes at the appropriate time, and for making annual returns to HMRC.

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