



# Patronage (Benefices) Measure 1986

1986 No. 3

## PART IV

### GENERAL AND SUPPLEMENTARY PROVISIONS

*Benefices in the patronage of the Crown, Duke of Cornwall or Lord Chancellor*

#### **35 Provisions with respect to benefices in the patronage of the Crown or Duke of Cornwall.**

- (1) Without prejudice to the application of sections 28 and 31 of this Measure to the Crown and except as provided by this section, nothing in this Measure shall apply in relation to any benefice the patronage or any share in the patronage of which is vested in or exercisable by Her Majesty, whether in right of Her Crown or Her Duchy of Lancaster or otherwise, or is vested in or exercisable by the possessor for the time being of the Duchy of Cornwall, whether Her Majesty or a Duke of Cornwall (in this Measure referred to as a “Crown benefice”).

[<sup>F1</sup>(1A) The following provisions of this Measure shall apply in relation to the selection of an incumbent to fill a vacancy in a benefice the patronage or any share in the patronage of which is vested in or exercisable by Her Majesty, whether in right of Her Crown or Her Duchy of Lancaster, or is vested in or exercisable by the possessor for the time being of the Duchy of Cornwall, whether Her Majesty or a Duke of Cornwall—

- (a) section 11(1)(b), (4), (5), (6) and (7);
- (b) section 11(2)(a) and, so far as it relates thereto, section 11(3)(a), and section 11(3)(b);
- (c) section 11(8), so far only as it relates to parish representatives; <sup>F2</sup>...
- (d) section 13(1)(b)(i), (3) and, so far only as they relate to parish representatives, (4) and (5); [<sup>F3</sup>and
- (e) section 16A except subsection (9).]

[<sup>F4</sup>(1B) Where—

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- (a) Her Majesty has the right of presentation to a benefice which is vacant during a vacancy in the see of a diocesan bishop and to which the right of presentation would, but for that vacancy, be exercisable by that bishop, and Her Majesty has given notice under section 2(3) of the 2010 Measure, or
  - (b) that right of presentation is exercisable on behalf of Her Majesty by the relevant bishop under section 2(2) of that Measure,
- any reference to the registered patron in any provision of this Measure listed in subsection (1C) below shall be construed as references—
- (i) where paragraph (a) above applies, to Her Majesty, and
  - (ii) where paragraph (b) above applies, to the relevant bishop.
- (1C) The provisions referred to in subsection (1B) are sections 7(4), 11(8), so far only as it relates to parish representatives, 13(1)(b)(i), (3) and, so far only as they relate to parish representatives, (4) and (5), 22 and 34(5).]]
- (2) Where it appears to the registrar of a diocese that a benefice is a Crown benefice, the registrar shall, as soon as practicable after the date on which section 1 of this Measure comes into force, notify Her Majesty or the possessor for the time being of the Duchy of Cornwall that he proposes to register Her Majesty or the possessor for the time being of the Duchy of Cornwall, as the case may be, as patron of the benefice specified in the notice.
  - (3) Where in the case of a Crown benefice a share only in the patronage is vested in Her Majesty or the possessor for the time being of the Duchy of Cornwall (in this section referred to as a “shared benefice”), sections 1 and 2 of this Measure shall apply for the purpose of enabling any patron other than Her Majesty or the possessor for the time being of the Duchy of Cornwall to be registered as a patron of that benefice and sections 5 and 21 of this Measure shall apply in relation to a registered patron of a shared benefice other than Her Majesty or the possessor for the time being of the Duchy of Cornwall.
  - (4) Where a right of patronage in a Crown benefice is transferred to any person other than Her Majesty or the Duke of Cornwall the registrar shall not register the transferee as patron of the benefice unless the application for transfer is made in accordance with Schedule 1 to this Measure before the expiration of the period of twelve months beginning with the date of execution of the transfer.
  - (5) Where a right of patronage of a benefice is proposed to be transferred to Her Majesty or to the possessor for the time being of the Duchy of Cornwall, section 3(2) to (7) of this Measure shall not apply but the transferor shall send a notice to the registrar to inform him of the transfer and the registrar shall notify Her Majesty or the possessor for the time being of the Duchy of Cornwall that he proposes to register Her Majesty or, as the case may be, the possessor of the Duchy of Cornwall as patron of that benefice.
  - (6) Section 3(1) of this Measure shall apply to the transfer of a right of patronage of a Crown benefice.
  - (7) Section 7 of this Measure shall apply in relation to a Crown benefice, and where the designated officer of a diocese receives a notice under that section in respect of a Crown benefice then—
    - (a) if the patronage is vested wholly in Her Majesty or the possessor for the time being of the Duchy of Cornwall or <sup>F5</sup>... if the right of presentation upon the vacancy in question is exercisable by Her Majesty or the Duke of Cornwall, any parochial church council to which notice is given under section 7(4) of this

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Measure may send to Her Majesty or the Duke of Cornwall, as the case may be, a statement describing the conditions, needs and traditions of the parish <sup>F6</sup>[<sup>F7</sup> ... ], and a copy of any such statement shall be sent to the bishop;

- (b) if the benefice is a shared benefice and the right of presentation upon the vacancy in question is exercisable by a person other than Her Majesty or the Duke of Cornwall, sections 8 to 21 of this Measure shall apply in relation to the benefice.

<sup>F8</sup>(7A) Where section 2 of the 2010 Measure applies—

- (a) if Her Majesty has not given any such notice as is referred to in subsection (3) of that section, section 35(7)(a) above has effect as if the second and third references to Her Majesty were references to the relevant bishop, and
- (b) section 35(7)(b) above has effect as if the reference to a person other than Her Majesty did not include a reference to the relevant bishop.]

- (8) Section 22 of this Measure shall apply in relation to a Crown benefice and where the consent of Her Majesty or the possessor for the time being of the Duchy of Cornwall is required by that section that consent may be given in accordance with the provisions of <sup>F9</sup>paragraphs (a) to (c) of section 100(2) of the Mission and Pastoral Measure 2011 and those provisions shall have effect accordingly with the necessary modifications.

- (9) Section 34 of this Measure shall apply in relation to a Crown benefice.

#### Textual Amendments

- F1** S. 35(1A)(1B) inserted (1.1.2011) by [Crown Benefices \(Parish Representatives\) Measure 2010 \(No. 3\)](#), **ss. 1(1), 2(2)** (with s. 1(2)); 2010 No. 7, art. 2
- F2** Word in s. 35(1A) omitted (1.1.2015) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), **ss. 12(4), 21(2)**; S.I. 2014/2077, art. 2(2)
- F3** S. 35(1A)(e) and word added (1.1.2015) by [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), **ss. 12(4), 21(2)**; S.I. 2014/2077, art. 2(2)
- F4** S. 35(1B)(1C) substituted for s. 35(1B) (1.1.2015) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), s. 21(2), **Sch. 2 para. 9(3)**; S.I. 2014/2077, art. 2(2) (with Sch. para. 5)
- F5** Words in s. 35(7)(a) omitted (1.1.2015) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), s. 21(2), **Sch. 2 para. 9(4)**; S.I. 2014/2077, art. 2(2)
- F6** Words in s. 35(7)(a) repealed (17.11.2014) by [Bishops and Priests \(Consecration and Ordination of Women\) Measure 2014 \(No. 2\)](#), s. 4(2), **Sch.**; 2014 No. 5, art. 2
- F7** Words in s. 35(7)(a) inserted (1.2.1994) by 1993 Measure No. 2, s. 10, **Sch. 3 para.13**; Instrument dated 31.1.1994 made by [Archbishops of Canterbury and York](#)
- F8** S. 35(7A) inserted (1.1.2015) by [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), s. 21(2), **Sch. 2 para. 9(5)**; S.I. 2014/2077, art. 2(2) (with Sch. para. 5)
- F9** Words in s. 35(8) substituted (1.1.2020) by [The Legislative Reform \(Patronage of Benefices\) Order 2019 \(S.I. 2019/1183\)](#), arts. 1(1), 7(4)

## 36 Provisions with respect to benefices in patronage of Lord Chancellor.

Without prejudice to the provisions of the <sup>M1</sup>Lord Chancellor (Tenure of Office and Discharge of Ecclesiastical Functions) Act 1974, the provisions of section 35 of this Measure shall apply in relation to a benefice the patronage or a share of the patronage of which is vested in the Lord Chancellor as it applies in relation to a Crown benefice, and accordingly any reference in that section to Her Majesty shall in relation to any

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benefice the patronage or a share of the patronage of which is so vested be construed as including a reference to the Lord Chancellor.

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**Marginal Citations**

**M1** [1974 c. 25.](#)

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