

Status: Point in time view as at 01/05/1996.

Changes to legislation: Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 26 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 1.

CONSTITUTION AND PROCEDURE OF THE PASTORAL COMMITTEE OF A DIOCESE

- 1 The Bishop shall be a member of the pastoral committee of his diocese if he so desires, and shall be the chairman thereof if he so desires.
- 2 If the bishop does not desire to be the chairman of the Committee he shall appoint a chairman who at the time of his appointment need not be a member of the committee but must be a member of the diocesan synod.
- 3 Every suffragan bishop in the diocese [^{F1}(not being a suffragan bishop appointed to act as a provincial episcopal visitor for the purposes of the Episcopal Ministry Act of Synod 1993)] and the archdeacon of every archdeaconry in the diocese shall be ex officio members of the committee.

Textual Amendments

- F1** Words in [Sch. 1 para. 3](#) inserted (1.9.1995) by [1995 No. 2, s. 11\(e\)](#); Instrument dated 26.7.1995 made by [Archbishops of Canterbury and York](#).

- 4 The diocesan board of finance, the diocesan parsonages board (if appointed under the ^{M1}Repair of Benefice Buildings Measure 1972) or if not so appointed the committee of the diocesan board of finance relating to parsonage matters and the diocesan advisory committee for the care of churches shall each appoint a member of the committee, who shall be a member or officer of the body who so appoints him.

Marginal Citations

- M1** [1972 No. 2](#).

- 5 The remaining members of the committee shall be appointed or elected in such manner as the diocesan synod may determine, but so as to secure that not less than one-half of all the members of the committee shall be elected and that the number of members who are of the clergy and the number thereof who are of the laity shall, as nearly as may be, be the same, and not more than one-third shall be ex officio members appointed under paragraph 3.
- 6 Members (other than ex officio members) of the committee shall hold office for five years or such lesser period as the diocesan synod may determine, but shall be eligible for re-appointment on the termination of any period of office.
- 7 Not less than one-third of the members of the committee shall form a quorum.
- 8 The committee may act notwithstanding any vacancy in their membership.

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- 9 Every question submitted to a meeting of the committee shall be decided by a majority of those present and voting, and the chairman of the meeting shall have a second or casting vote in the case of an equality of votes.
- 10 The committee shall have power to appoint sub-committees and to appoint thereto persons who are not members of the committee, but a majority of the members of the sub-committee shall be members of the committee. The committee may delegate to such sub-committees any of their functions under Part I or Part IV except their duty under section 3(5) to afford opportunities to incumbents of benefices and vicars in team ministries to meet the committee itself and their functions under Schedule 4.
- 11 Where in accordance with section 3(5) or (6) any person is to meet a sub-committee of the committee, not less than two members of that sub-committee shall be members of the committee.
- 12 Subject to the foregoing provisions of this Schedule and to any directions given by the diocesan synod, the committee shall have power to regulate their own procedure.

SCHEDULE 2

Section 9.

APPEALS TO THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- 1 Any person who intends to apply for leave to appeal to Her Majesty in Council under section 9 shall on or before the date specified in the notice served on him under subsection (1) of that section send written notice of his intention to the Clerk of the Privy Council. The notice shall be sent by registered post or recorded delivery service and a copy thereof shall be sent to the Commissioners by the applicant.
- 2 Where five or more persons acting jointly duly made written representations with respect to the draft scheme, notice of their intention to apply for leave to appeal under section 9, the application for such leave, and, if such leave is granted, the appeal, shall be given or made, as the case may be, by not more than four of those persons acting on behalf of themselves and the others.
- 3 If the Clerk of the Privy Council is satisfied that a notice under paragraph 1 has been given by a person who duly made written representations with respect to the scheme in question, he shall transmit the notice to the Registrar of the Privy Council and shall notify the applicant and the Commissioners that he has done so. If he is not so satisfied he shall inform the applicant and the Commissioners that the applicant is not entitled to proceed with his application.
- 4 Within the period of 28 days beginning with the date on which an applicant for leave to appeal under section 9 receives a notification under paragraph 3 from the said Clerk he shall lodge in the registry of the Privy Council five copies of his application for such leave, and the application shall—
- (a) state the grounds of his appeal including a succinct statement of any reasons why he considers that the scheme in question, or any particular provision thereof, should not have been made;
 - (b) summarise succinctly and clearly any facts on which, if such leave is granted, he intends to rely in prosecuting his appeal.

There shall be annexed to each copy of the application a copy of the scheme and of the Commissioners' statement given to the applicant under section 9(1)(a).

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- 5 The Judicial Committee of the Privy Council shall consider an application for such leave, and if it grants leave, the Registrar of the Privy Council shall forthwith register the appeal and notify the Clerk of the Privy Council, the applicant and the Commissioners that he has done so.
- 6 After receiving notice that leave to appeal has been granted the appellant shall without delay lodge in the Registry of the Privy Council five copies of his petition of appeal. The petition shall consist of paragraphs numbered consecutively and shall state succinctly and clearly all such facts as are necessary in order to enable the Judicial Committee to advise Her Majesty in accordance with the provisions of section 9. There shall be annexed to each copy of the petition a copy of the scheme and of the Commissioners' statement given to the appellant under section 9(1)(a) and any documents in his possession to which the appellant may wish to refer. A copy of the petition and the annexed documents shall within fourteen days of the lodging of the petition be served by the appellant on the Commissioners.
- 7 The Commissioners shall without delay after receiving the said copy lodge in the Registry of the Privy Council five copies of their answer, to each of which shall be annexed copies of any documents to which the Commissioners may wish to refer, and shall within fourteen days of the lodging of the answer serve a copy thereof and of the annexed documents on the appellant.
- 8 Except with the leave of the Judicial Committee of the Privy Council, no document shall be introduced in the course of the proceedings on the appeal unless it has been annexed to the petition or to the answer.
- 9 An appeal shall be set down as soon as the answer has been lodged.
- 10 A map showing clearly the boundaries of any ecclesiastical area affected by the scheme shall be lodged by the Commissioners before the hearing of the appeal.
- 11 Where an appellant, having been granted leave to appeal under section 9, fails to lodge his petition of appeal within a period of three months beginning with the date on which he received a notification under paragraph 5 or such extended period as the Registrar of the Privy Council may allow, the Registrar of the Privy Council may by letter notify the Lord President of the Council that the appeal has not been prosecuted, and the appeal shall thereupon stand dismissed for non-prosecution as from the date of the said letter without further order, and a copy of the said letter shall be sent by the Registrar to the appellant or his solicitor and to the Commissioners.

Modifications etc. (not altering text)

C1 [Sch. 2 para. 11](#) amended by [S.I. 1991/2684](#), artS. 1, 2(1), 4, Sch.1

- 12 All bills of costs under any order of the Judicial Committee, on such appeal shall be referred to the Registrar of the Privy Council for taxation, and such taxation shall be regulated (so far as the same are applicable) by the rules of the Judicial Committee for the time being in force.
- 13 The Judicial Committee of the Privy Council may give such further directions in matters of practice and procedure affecting applications for leave to appeal, and appeals, under section 9 as they consider just and expedient.

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SCHEDULE 3

Sections 20, 21, 22, 24, 27, 29, 31, 32 and
40.

SUPPLEMENTARY PROVISIONS APPLICABLE TO MATTERS ARISING OUT OF PASTORAL SCHEMES AND ORDERS

Team and group ministries

- 1 (1) A pastoral scheme establishing a team ministry shall provide for the presentation of the rector of the team ministry, other than the first rector if designated by the scheme, either by a patronage board constituted by the scheme or by the diocesan board of patronage.
- (2) Sub-paragraph (1) shall not apply in relation to a benefice of which the bishop is the sole patron, but in that case the pastoral scheme establishing a team ministry for that benefice may provide as mentioned in that sub-paragraph, and if the scheme does not so provide, the bishop shall choose the rector, other than the first rector, if designated by the scheme, and shall collate him to the benefice.
- (3) [F²Any enactment](including this Measure) or rule of law relating to the presentation or collation of incumbents shall apply to any presentation or collation under this paragraph and before the patronage board or the diocesan board of patronage exercise their right of presentation or the bishop exercises his right of collation thereunder they or he, as the case may be, shall consult the other members of the team.
- (4) A patronage board constituted by a pastoral scheme establishing a team ministry shall consist of the bishop, who shall be the chairman, and such other member or members as the scheme may provide; and regard shall be had in making such provision to the interests of persons who previously had patronage rights in the benefice for which the team ministry is established or, if it is a new benefice created by the union of two or more benefices, patronage rights in any of the constituent benefices, but it shall not be necessary, in cases where there are pastoral or practical objections, for those persons or all of them to be members of the patronage board.
- (5) Without prejudice to the generality of sub-paragraph (4), such a scheme may provide for empowering the bishop to appoint one or more persons, but not exceeding the number specified in the scheme, to be a member or members of the board for such period as the bishop may specify when making the appointment.
- (6) The bishop may authorise a suffragan or assistant bishop or archdeacon of the diocese to act for him at any meeting of the board and exercise his voting rights, and any other member of the board (including any body corporate or unincorporated body of persons) may be represented by a person authorised to act and vote on this or their behalf [F³being a person who has made the declaration of membership within the meaning of the Patronage (Benefices) Measure 1986].
- (7) Subject to [F⁴sub-paragraph (7A) and] paragraph 2(3), a pastoral scheme by which a patronage board is constituted may provide that any member of the board specified in the scheme shall be entitled to such number of votes as may be so specified and that where there is an equal division of votes the bishop, as chairman, shall have a casting vote, but except in so far as the scheme so provides, each member of the board shall be entitled to one vote.

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- [^{F5}(7A) (a) This sub-paragraph applies to every vicar in a team ministry and every member of a team to whom section 20(3A) applies or to whom a special responsibility for pastoral care is assigned under section 20(8A).
- (b) Every person to whom this sub-paragraph applies shall have the right to attend at the meetings of the patronage board or the diocesan board of patronage, as the case may be, at which the person to be presented as rector of the team ministry is considered and chosen and shall be entitled between them to one vote, which shall be exercised by such one of them or such two or more of them (acting unanimously or by a majority) as may be present at any such meeting.]
- (8) A patronage board constituted by such a scheme as aforesaid shall be a body corporate for the purpose of holding the rights of patronage conferred upon them, and shall have a seal, and shall have power to regulate their own procedure.
- (9) If the pastoral scheme provides for the [^{F6}patron to be]the diocesan board of patronage, it shall give to persons specified in the scheme rights to attend and vote at the meetings of the board at which the person to be presented is considered and chosen, and regard shall be had in determining the persons to whom those rights are to be given to the interests of the persons mentioned in sub-paragraph (4), but it shall not be necessary, in cases where there are pastoral or practical objections, for those persons or all of them to be given those rights.
- (10) The rights to be members of the patronage board or, as the case may be, to attend and vote at sittings of the diocesan board of patronage shall, except where such rights are vested in a person in right of his office or only for life or a term of years, be transferable inter vivos and on death, but in no case shall such rights be saleable and they shall not be deemed to be rights in land.
- (11) Persons having the rights mentioned in the last foregoing sub-paragraph shall furnish to the registrar of the diocese particulars thereof, including particulars of any transfer or devolution of the rights concerned, and if they fail to do so their rights may be disregarded for the purposes of this paragraph (including the next sub-paragraph).
- (12) Where a pastoral scheme terminates a team ministry, the scheme shall, so far as practicable and having regard to pastoral considerations and to the last foregoing sub-paragraph, provide for restoring rights of patronage in respect of the benefice concerned to the persons who would have possessed them if the team ministry had never been established and, if and so far as it is not practicable to make such provision, shall make other provision for the vesting and exercise of rights of patronage in respect thereof.
- [^{F7}(13) Sub-paragraphs (3) to (11) shall apply in relation to a pastoral scheme or order altering a team ministry under section 22(1)(bb) or 37(e)(v) as they apply in relation to a pastoral scheme establishing a team ministry.]

Textual Amendments

- F2** Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 25(a)** (i)
- F3** Words inserted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 25(a)(ii)**
- F4** Words in **Sch. 3 para. 1(7)** inserted (1.5.1996) by 1995 No. 1, **s. 6(2)(a)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

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- F5** Sch. 3 para. 1(7A) inserted (1.5.1996) by 1995 No. 1, s. 6(2)(b); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.
- F6** Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), Sch. 4 para. 25(a) (iii)
- F7** Sch. 3 para. 1(13) inserted (1.5.1996) by 1995 No. 1, s. 6(2)(c); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

- 2 (1) A pastoral scheme establishing a team ministry which provides for the presentation of the rector by a patronage board constituted by the scheme or by the diocesan board of patronage may provide for the vicars in that ministry, other than the first holder of any office of vicar therein, if designated by the scheme, to be chosen by the same body.
- (2) Where such a scheme provides as aforesaid, the rector of the team ministry ^{F8} . . . shall have the right to attend and vote at the meetings of the patronage board or the diocesan board of patronage, as the case may be, at which the person to be appointed a vicar in that ministry is considered and chosen.
- [^{F9}(3) (a) This sub-paragraph applies to every vicar in a team ministry and every member of a team to whom section 20(3A) applies or to whom a special responsibility for pastoral care is assigned under section 20(8A).
- (b) Where such a scheme provides as aforesaid, every person to whom this sub-paragraph applies shall have the right to attend at the meetings referred to in sub-paragraph (2) and shall be entitled between them to one vote, which shall be exercised by such one of them or such two or more of them (acting unanimously or by a majority) as may be present at any such meeting.]
- (4) Where such a scheme does not provide as aforesaid, the vicar or vicars in the team ministry, other than the first holder of any office of vicar therein, if designated by the scheme, shall be chosen by the bishop and the rector jointly.
- (5) Before the body or other persons who are entitled to choose a person to be a vicar in a team ministry make their choice, they shall consult—
- (a) the other members of the team;
- (b) the parochial church council of every parish belonging to the benefice for the area of which the team ministry was established; and
- (c) if a special cure of souls in respect of a part of the area is to be assigned in accordance with section 20(8)(a) to the vicar, any district church council concerned.
- [^{F10}(6) (a) The body or other persons who are entitled to choose a person to be a vicar in a team ministry shall not make to any person an offer of appointment as such until the making of the offer to the person in question has been approved by the parish representatives.
- (b) If, before the expiration of the period of two weeks beginning with the date on which the said body or other persons sent to the parish representatives a request for them to approve under this sub-paragraph the making of the offer to the person named in the request, no notice is received from any representative of his refusal to approve the making of the offer, the representatives shall be deemed to have given their approval under this sub-paragraph.
- (c) If any parish representative refuses to approve under this sub-paragraph the making of the offer to the person named in the request, the representative

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shall notify the said body or other persons in writing of the grounds on which the refusal is made.

- (d) Where approval of an offer is refused under this sub-paragraph, the said body or other persons may request the archbishop of the province in which the benefice in question is to review the matter and if, after review, the archbishop authorises the said body or other persons to make the offer in question, that offer may be made accordingly.

- (7) In sub-paragraph (6) the expression “parish representatives” means two lay members of the parochial church council concerned appointed by that council to act as representatives of the council in connection with the selection of vicars in the team ministry.

- (8) Sub-paragraphs (2), (3), (5) and (6) shall apply in relation to a pastoral scheme or order altering a team ministry under section 22(1)(bbb) or section 37(e)(v) as they apply in relation to a pastoral scheme establishing a team ministry.]

Textual Amendments

- F8** Words in [Sch. 3 para. 2\(2\)](#) omitted (1.5.1996) by virtue of [1995 No. 1, s. 6\(3\)\(a\)](#); Instrument dated 12.2.1996 made by [Archbishops of Canterbury and York](#).
- F9** [Sch. 3 para. 2\(3\)](#) substituted (1.5.1996) by [1995 No. 1, s. 6\(3\)\(b\)](#); Instrument dated 12.2.1996 made by [Archbishops of Canterbury and York](#).
- F10** [Sch. 3 para. 2\(6\)-\(8\)](#) inserted (1.5.1996) by [1995 No. 1, s. 6\(3\)\(c\)](#); Instrument dated 12.2.1996 made by [Archbishops of Canterbury and York](#).

- [^{F113} Where a group ministry is established by a pastoral scheme for a group of benefices, the registered patron of a benefice in the group shall consult the other incumbents and any priests in charge in the group before he makes a request under section 13 of the Patronage (Benefices) Measure 1986 for the approval of the parish representatives (as defined in section 11(7) of that Measure), and (unless the registered patron is the bishop) of the bishop, to the making to a priest of an offer to present him to the benefice]

Textual Amendments

- F11** [Sch. 3 para. 3](#) substituted by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\), s. 41\(1\), Sch. 4 para. 25\(b\)](#)

- 4 (1) Where a pastoral scheme establishes a team ministry, the scheme, or the bishop’s licence of any vicar in the team ministry, may assign to any such vicar the duties or a share in the duties of the chairmanship of the annual parochial church meeting and the parochial church council of the parish or any of the parishes in the area of the benefice for which the team ministry is established, and other duties of the minister of the parish under the Church Representation Rules, or a share in such other duties, and the said Rules shall have effect accordingly:

Provided that, if the said duties of chairmanship are to be shared, the arrangements shall be such that the chairman on any occasion is determined in advance so that, in his absence, the vice-chairman of the parochial church council shall take the chair in accordance with the said Rules.

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- (2) Where a pastoral scheme establishes a team ministry for the area of a benefice which comprises a parish in which there are two or more churches or places of worship, the scheme may make provision, or authorise the bishop by instrument under his hand with the concurrence of the rector to make provision,—
- (a) for ensuring due representation of the congregation of each such church or place of worship on the parochial church council of the parish,
 - (b) for the election of a district church council for any district in the parish in which such church or place of worship is situated and for the constitution, chairmanship and procedure of that council,
 - (c) for the functions of the parochial church council of the parish which must or may be delegated to the district church council,
 - (d) for the election or choice of deputy churchwardens for such church or place of worship and for the functions of churchwardens of the parish which must or may be delegated to the deputy churchwardens,

being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.

In this sub-paragraph “place of worship” means a building or part of a building licensed for public worship according to the rites and ceremonies of the Church of England.

- (3) Where a pastoral scheme establishes a team ministry for the area of a benefice which comprises more than one parish, the scheme may make provision, or authorise the bishop by instrument under his hand with the concurrence of the rector to make provision,—
- (a) for the establishment of a team council,
 - (b) for the chairmanship, meetings and procedure of the team council, and
 - (c) [^{F12}subject to paragraph 19 of Schedule 2 to the patronage (Benefices) Measure 1986]for the functions of the parochial church council of each parish in the area which must or may be delegated to the team council,

being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.

- (4) Where a pastoral scheme establishes a group ministry, the scheme may make provision, or authorise the bishop by instrument under his hand with the concurrence of all the members of the group to make provision,
- (a) for the establishment of a group council,
 - (b) for the chairmanship, meetings and procedure of the group council, and
 - (c) for the functions of the parochial church council of each parish in the area for which the group ministry is established which must or may be delegated to the group council,

being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.

- (5) Any provisions which are included in a pastoral scheme or the bishop’s instrument by virtue of sub-paragraph (2), (3) or (4) shall cease to have effect at the expiration of such period as may be specified in the scheme or instrument, as the case may be, being a period which does not exceed five years from the date of the establishment of the team ministry or group ministry to which the pastoral scheme or instrument relates, and that period may not be extended or renewed by a subsequent scheme or instrument of the bishop.

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- (6) Any provisions which were included in a pastoral scheme or bishop’s instrument by virtue of sub-paragraph (2) or (4), as originally enacted, shall cease to have effect at the expiration of whichever of the following periods last expires, that is to say, the period of five years beginning with the date of the establishment of the team ministry or group ministry to which the scheme or instrument relates and the period of three years beginning with the date on which this Measure comes into operation.

Textual Amendments

F12 Words inserted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), Sch. 4 para. 25(c)

Admission and induction to benefices

- 5 (1) Any person who is designated by or selected under a pastoral scheme or order as the incumbent of a benefice, shall not be required to be presented to that benefice nor shall the bishop be required to nominate that person as the person to whom he collates the benefice.
- (2) Where a pastoral scheme creates a new benefice or establishes a team ministry for the area of a benefice, then—
 - (a) if the first incumbent of that new benefice or the first rector of that ministry is designated or selected as aforesaid, he shall, unless the bishop otherwise directs, be deemed to have been admitted to that new benefice or to the benefice for the area of which the team ministry is established, as the case may be, and no fees in respect thereof shall be payable;
 - (b) in any other case section 75(1) shall apply.
- (3) Where a pastoral scheme or order provides for the holding in plurality of two or more benefices, then—
 - (a) if the first incumbent who is to hold all the benefices concerned was immediately before the scheme or order comes into operation the incumbent of any of those benefices, he shall, unless the bishop otherwise directs, be deemed to have been admitted to the other benefice or benefices, and no fees in respect thereof shall be payable;
 - (b) in any other case section 75(2) shall apply.
- (4) **F13**
- (5) It shall not be necessary, by reason only of the substitution of another church for a parish church by pastoral scheme or order, for the incumbent of the benefice to be inducted in the new parish church or comply with any other process or form of law.

Textual Amendments

F13 Sch. 3 para. 5(4) repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(2), Sch. 5

Patronage rights

- 6 **F14**

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Textual Amendments

F14 Sch. 3 para. 6 repealed by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\)](#), s. 41(2), [Sch. 5](#)

General provisions as to vesting of property

- 7 (1) Where a pastoral scheme creates a new benefice by a union of benefices, any church, churchyard, burial ground, parsonage house or other property which was previously vested in right of his benefice in the incumbent of any of the constituent benefices, shall vest in the incumbent of the new benefice:
- Provided that—
- (a) this sub-paragraph shall not apply to any parsonage house for which other provision is made by or under a pastoral scheme;
 - (b) if the new benefice is to be held by the provost of a parish church cathedral, any such property as would have vested in the incumbent as aforesaid shall instead vest in the cathedral chapter.
- (2) Where by virtue of a pastoral scheme (other than a scheme to which the foregoing sub-paragraph applies) or a pastoral order any church or churchyard or burial ground previously vested in the incumbent of a benefice becomes situated in a parish belonging to another benefice, the church, churchyard or burial ground, and any movable property used for the purposes thereof and vested as aforesaid, shall vest in the incumbent of that other benefice.
- (3) Where any movable property used for the purposes of a church or churchyard is vested in the churchwardens or parochial church council of a parish, and the church or churchyard becomes situated in another parish by virtue of a pastoral scheme or order, the property shall vest in the churchwardens or, as the case may be, the parochial church council of that other parish.
- (4) The foregoing provisions of this paragraph shall have effect subject to any express provision of a pastoral scheme or order and, where applicable, to the provisions of paragraph 11 relating to property held on charitable trusts.
- (5) Where a pastoral scheme or order provides for the transfer of any property to any person, or any property vests by virtue of this paragraph in any person, that property shall, when the transfer or vesting takes effect, vest in that person without any conveyance or other assurance and free and discharged, in the case of property consisting of diocesan glebe land or a house situated on such land, from any previously existing trust in favour of the diocesan stipends fund and, in the case of any other property, from all previously existing trusts and charges in favour of any benefice, but subject—
- (a) to the provisions of the next following paragraph, where applicable,
 - (b) to all other previously existing trusts and charges and any previously existing tenancies, and
 - (c) in the case of an endowment, to any provision made under section 33(1) for payment or crediting of the income or any part of the income of the endowment to the diocesan stipends fund, unless the scheme or order otherwise provides.
- (6) A pastoral scheme or order may with the consent of the incumbrancer provide for the apportionment of any sum charged on property of which only part is transferred

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by the scheme or order and for securing the sums so apportioned on the respective parts of the property.

Modifications etc. (not altering text)

C2 Sch. 3 para. 7(1) amended (30.6.1999) by 1999 No. 1, ss. 36(2)(6), 38(2)(3) (with ss. 33, 34, 37, 38(6))

Loans

- 8
- (1) This paragraph applies to loans made under any Act or Measure, being in each case loans in respect of which principal money or interest is owing to the Commissioners.
 - (2) Where a loan has been made in respect of property which is transferred by a pastoral scheme or order to the diocesan board of finance then, unless the scheme or order otherwise provides, the Commissioners may cause the loan to be discharged immediately out of the diocesan pastoral account or out of the proceeds of any disposal of the property, or may postpone such discharge, with or without payment of interest on the loan during the period of postponement, for such period and on such conditions as they may from time to time determine.
 - (3) The Commissioners may, where necessary determine whether a loan and what part of the loan was made in respect of any particular property, and apportion a loan to parts of the property in respect of which it was made.

Property transferred to diocesan board of finance

- 9
- (1) Where any property is transferred under section 31 by a pastoral scheme or order to the diocesan board of finance for disposal, the board may dispose thereof either as a whole or in parts and at such time or times as they deem right, and their powers shall include powers of sale, letting and exchange of land and power to demolish any building or part thereof so transferred.
 - (2) The terms on which any such property is sold or otherwise disposed of by the diocesan board of finance shall be approved by the Commissioners.
 - (3) Where a pastoral scheme or order provides for the transfer as aforesaid of any property to the diocesan board of finance for disposal, the scheme or order may provide for the application of the net proceeds of disposal (including net premiums and rents) or any part thereof towards the provision, restoration, improvement or repair of a church or a place of worship within the meaning of section 46 or a parsonage house or a house for a vicar in a team ministry or an assistant curate, but, except in so far as the scheme may so provide, the net proceeds shall be paid into the capital account of the diocesan stipends fund or into the diocesan pastoral account, or partly into the one and partly into the other, as the diocesan board of finance may determine or as the scheme may provide.
 - (4) Notwithstanding the foregoing provisions of this paragraph, the diocesan board of finance may elect to take over and hold as part of their corporate property any property transferred to them as aforesaid for disposal, for such consideration as the Commissioners with the concurrence of the board may determine as representing the

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fair value of the property, and the amount of the consideration shall be applied, paid or credited as if it were the net proceeds of the disposal of the property.

- (5) Where a pastoral scheme or order provides for the transfer of any property as aforesaid to the diocesan board of finance for use for diocesan or parochial purposes,
- (a) the transfer shall, unless the scheme otherwise provides, be without consideration, and in that case no consideration shall be payable by a parochial church council in respect of the use thereof for parochial purposes;
 - (b) the board may appoint the parochial church council as managers or managing trustees of any property to be used for parochial purposes.

Crediting of sums to and adjustment of funds and accounts by Commissioners

- 10 Where by virtue of this Measure or a pastoral scheme or order any money is required to be appropriated or credited to the capital account or the income account of a diocesan stipends fund or a diocesan pastoral account [^{F15}or the redundant churches temporary maintenance account], the money shall be taken over and held by the Commissioners as part of their corporate property, and the Commissioners shall credit the appropriate fund or account with an equivalent amount charged upon their general fund and shall allow interest at such rate as they may determine upon all sums credited to a diocesan pastoral account [^{F16}or the redundant churches temporary maintenance account].

Textual Amendments

F15 Words in *Sch. 3 para. 10* (1.4.1994) by 1994 No. 1, s. 12(a); Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F16 Words in *Sch. 3 para. 10* (1.4.1994) by 1994 No. 1, s. 12(b); Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

Church and parochial trusts

- 11 (1) Where any benefice is dissolved by a pastoral scheme, whether in consequence of a union of benefices or otherwise, and any property of a charity established for ecclesiastical purposes of the Church of England is vested in or under the management or control of the incumbent of that benefice (with or without other persons) or a corporation of which he is a member, the trusts of the charity or the constitution of the corporation shall have effect with the substitution for that incumbent of the incumbent of the new benefice created by the union or (in a case arising otherwise than in consequence of a union) of the incumbent of such benefice as may be specified by order of the Charity Commissioners, being a benefice the area of which incorporates part of the area of the dissolved benefice.
- (2) Where any parish is dissolved by a pastoral scheme, whether in consequence of a union of parishes or otherwise, and any property of a charity established for the purposes aforesaid is vested in or under the management or control of the churchwardens or parochial church council of that parish (with or without other persons), the trusts of the charity shall have effect with the substitution for those churchwardens or that council of the churchwardens or parochial church council of the parish created by the union or (in a case arising otherwise than in consequence of

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a union) of such parish as may be specified by order of the Charity Commissioners, being a parish which incorporates part of the dissolved parish.

(3) Where—

- (a) any property of a charity established for the purposes aforesaid is vested in or under the management or control of the incumbent of a benefice (with or without other persons) or a corporation of which the incumbent of a benefice is a member, and
- (b) a team ministry is established by a pastoral scheme for an area comprising the whole or a major part of the area of that benefice,

then, if a special cure of souls in respect of a part of the area for which that ministry is established, being a part which consists of the first mentioned benefice or a major part of the area thereof, is assigned by the scheme or the bishop's licence to a vicar in the team ministry [^{F17}or, where a special cure of souls is not so assigned, a special responsibility for pastoral care in respect of such a part of that area is assigned to a member of the team under section 20(8A), the trusts of the charity or the constitution of the corporation shall have effect with the substitution for the incumbent of that benefice of that vicar or that member, as the case may be, but, except as aforesaid those trusts and that constitution shall (where necessary) have effect with the substitution for that incumbent of any such member of the team as may be nominated for the purposes of this sub-paragraph by the bishop of the diocese concerned.]

- (4) Any change under the foregoing provisions in the vesting of property shall take effect without any conveyance or other assurance.
- (5) Where a union of benefices or parishes is effected by a pastoral scheme, or the area of a benefice or parish is altered by a pastoral scheme or order, and the purposes of a charity established for the purposes aforesaid are defined by reference to one of the constituent benefices or parishes or, as the case may be, to the benefice or parish affected by the alteration, the trusts of the charity shall (subject to any such scheme as is hereinafter mentioned) have effect with the substitution for that benefice or parish of the benefice or parish created by the union or, as the case may be, of the benefice or parish as altered.
- (6) The powers of the Charity Commissioners to make schemes under [^{F18}section 16 of the Charities Act 1993] may, in the case of a charity established for the purposes aforesaid, being a charity whose administration or purposes are affected by a pastoral scheme or order, be exercised on the application of the diocesan board of finance as well as in accordance with that section.
- (7) Any schemes or orders made by the Charity Commissioners for purposes arising in connection with a pastoral scheme or order may be made before the date on which the pastoral scheme or order comes into operation, but not so as to take effect before that date.
- (8) Where, by reason of the dissolution of a parish by a pastoral scheme, the parochial church council of that parish ceases to exist then, if and so far as any property vested in, or held on behalf of, that council is not dealt with under the foregoing provisions of this paragraph, the property shall, without any conveyance or other assurance, vest in or be held on behalf of the parochial church council of the parish in which the parish church of the dissolved parish, or the site of that church, is situated, for the like purposes, as nearly as may be, as those for which it was previously applicable in the hands of the first mentioned council.

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Any question arising as to the application of any such property or the income thereof shall be referred to the bishop of the diocese, whose decision shall be final and conclusive.

- (9) Where, as a condition of any benefaction, attendance at or the performance of Divine Service or any other act is required at any church, and that church ceases in consequence of a declaration of redundancy made by a pastoral scheme to be used for Divine Service, and the case is not provided for under the foregoing provisions of this paragraph, the parish church of the parish in which the first mentioned church or the site thereof is situated shall be substituted for the first-mentioned church for the purpose of the performance of the required act.
- (10) The provisions of this paragraph shall not apply to any fund or property for which provision is made under section 63.

Textual Amendments

- F17** Words in Sch. 3 para. 11(3) substituted (1.5.1996) by 1995 No. 1, s. 6(4); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.
- F18** Words in Sch. 3 para. 11(6) substituted (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), Sch. 6 para. 18(5)

Parochial church meetings and councils

- 12 (1) A pastoral scheme which creates a new parish may make provision, or authorise the bishop by instrument under his hand to make provision, for ensuring that the congregation of every church or place of worship in the new parish will have its own elected representatives of the laity on the parochial church council of that parish.
- (2) Any provision included in a pastoral scheme or the bishop's instrument by virtue of sub-paragraph (1) shall cease to have effect at the expiration of such period as may be specified in the scheme or instrument, as the case may be, being a period which does not exceed five years beginning with the date on which the new parish comes into being, and that period may not be extended or renewed by a subsequent pastoral scheme or instrument of the bishop.
- (3) Any such provision shall have effect notwithstanding anything in the Church Representation Rules.
- (4) Without prejudice to any general rule of law relating to parochial church councils, the powers, duties and liabilities set out in section 4(1)(ii) of the ^{M2}Parochial Church Councils (Powers) Measure 1956 shall continue to apply to any church which was formerly a parish church and becomes a chapel of ease as the result of a pastoral scheme or order, and to the churchyard of any such church, except so far as the scheme or order otherwise provides.

Marginal Citations

- M2** 1956 No. 3.

- 13 (1) Where a pastoral scheme provides for two or more parishes to be comprised in the area of a single benefice or a pastoral scheme or order provides for two or more benefices to be held in plurality, the scheme or order may make provision,

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or authorise the bishop by instrument under his hand with the concurrence of the incumbent of the benefice or benefices to make provision,—

- (a) for establishing a joint parochial church council for all or some of the parishes of the benefice or benefices;
- (b) for the chairmanship, meetings and procedure of that council; and
- (c) [^{F19}subject to paragraph 20 of Schedule 2 to the Patronage (Benefices) Measure 1986,]for the functions of the parochial church council of any such parish which must or may be delegated to the joint parochial church council,

being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.

- (2) Subject to sub-paragraph (4), any provisions which are included in a pastoral scheme or order or the bishop's instrument by virtue of sub-paragraph (1) shall cease to have effect at the expiration of such period as may be specified in the scheme, order or instrument, being a period which does not exceed five years from the date on which the scheme or order, as the case may be, came into operation, and that period may not be extended or renewed by a subsequent pastoral scheme, pastoral order or instrument of the bishop.
- (3) Subject to sub-paragraph (4), any provisions which were included in a pastoral scheme or order by virtue of this paragraph as originally enacted, shall cease to have effect at whichever of the following periods last expires, that is to say, the period of five years beginning with the date of the establishment of the joint parochial church council to which the scheme or order relates and the period of three years beginning with the date on which this Measure comes into operation.
- (4) Where the provisions of a pastoral scheme or order for the holding of benefices in plurality are terminated under section 18(2), any provision of a pastoral scheme or order or the bishop's instrument establishing a joint parochial church council for all or some of the parishes of those benefices and the other provisions thereof affecting that council shall cease to have effect on the date on which the first mentioned provisions cease to have effect.

Textual Amendments

F19 Words inserted by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\)](#), s. 41(1), [Sch. 4 para. 25\(d\)](#)

Marriages and banns of matrimony

- 14 (1) Section 10(1) of the ^{M3}Marriage Act 1949 (which provides for the completion in a church of the publication of banns of matrimony commenced in another church) shall have effect as if this Measure were included among the Measures therein mentioned.
- (2) Where, after the completion of the publication of the banns in any church, another church has by virtue of any provision of this Measure or anything done thereunder become a church in which banns of matrimony could be published in relation to the parties to the intended marriage, the marriage may be solemnised in that other church.
- (3) Where a declaration of redundancy is made in respect of a chapel of ease, any licence relating to that chapel granted under section 20 of the Marriage Act 1949 (licensing of chapels for publication of banns of matrimony, etc.) shall be deemed to have been revoked under that section.

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- (4) Section 23 of the ^{M4}Marriage Act 1949 (which empowers the bishop to direct, in the case of benefices held in plurality, where banns of matrimony of persons entitled to be married in any church of those benefices may be published and where marriages of those persons may be solemnised) shall also apply, subject to the necessary modifications, to a case where by virtue of any provision of this Measure or anything done thereunder there are two or more parishes or parish churches in the area of a single benefice.
- (5) Where after the issue of a common licence for the solemnisation of the marriage in any church, another church has by virtue of any provision of this Measure or anything done thereunder taken the place of that church as a church in which the marriage of the parties concerned ought to be solemnised in pursuance of a common licence, the marriage may be solemnised in that other church.

Marginal Citations

M3 1949 c. 76.

M4 1949 c. 76.

Burial rights in new or altered parishes

- 15 (1) On a union of parishes by virtue of a pastoral scheme the persons residing within the limits of the parish thereby created shall have the rights and privileges (if any) of parishioners in respect of burials in that parish:
- Provided that any such parishioner who, before the union took effect, had any rights of burial in a churchyard within the limits of a constituent parish shall, so long as that churchyard remains open for interments, continue to have those rights and shall not become entitled by virtue of the union to rights of burial in any other churchyard.
- (2) On the creation, otherwise than by union, of a new parish by a pastoral scheme, the persons residing within the limits of the new parish shall continue to have the same rights and privileges in respect of burials which they enjoyed before the creation of the new parish, but such rights shall cease when they obtain rights of burial as parishioners of the new parish.
- (3) Where any persons by virtue of a pastoral scheme or order providing for the alteration of parochial boundaries come to reside within a different parish, they shall have such rights and privileges in respect of burials as are possessed by parishioners of that different parish and not any others.

Provisions relating only to pastoral schemes affecting diocesan boundaries

- 16 (1) Where a benefice or parish or extra-parochial place is transferred from one diocese to another by a pastoral scheme,—
- (a) any property vested in the diocesan board of finance of the old diocese and held for ecclesiastical purposes relating solely to the benefice or parish or place transferred shall vest in the diocesan board of finance of the new diocese and be held for those purposes;
- (b) all documents and maps in the custody of the registrar or other officer of the old diocese and relating solely to the benefice or parish or place

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- transferred shall be transferred to the register or corresponding officer of the new diocese;
- (c) any licence granted by the bishop of the old diocese shall, so far as it relates to the benefice or parish or place transferred or any church therein, be deemed for all purposes to have been granted by the bishop of the new diocese;
 - (d) any order, direction or action made, given or taken by the bishop or the diocesan board of finance or any clerical or lay officer or body of the old diocese with respect to the benefice or parish or place transferred or any property thereof shall be deemed to have been made, given or taken by the bishop, diocesan board of finance or corresponding clerical or lay officer or body of the new diocese;
 - (e) the power of the diocesan board of finance to apply under paragraph 11(6) for a scheme under [^{F20}section 16 of the Charities Act 1993] shall be exercisable by the board of either diocese.
- (2) Where part of the area of a benefice or part of a parish or extra-parochial place is transferred as aforesaid, the foregoing sub-paragraph shall apply as if the references to the benefice or parish or place transferred were references to the part transferred.
- (3) Where a pastoral scheme or order makes any alteration of diocesan boundaries, the Commissioners may make, as respects each of the dioceses affected after consultation with the diocesan board of finance of each of those dioceses, such adjustments as they consider desirable in the capital or income accounts of the diocesan stipends fund or the diocesan pastoral account or any other fund, account or allocation held or made by them.
- (4) In this paragraph the expression “old diocese” and “new diocese” shall respectively mean the diocese from which and the dioceses to which the benefice, parish or extra-parochial place or part thereof is transferred.

Textual Amendments

F20 Words in Sch. 3 para. 16(1)(e) substituted (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), Sch. 6 para. 18(5)

SCHEDULE 4

Section 26.

COMPENSATION OF CLERGY

- 1 The incumbent of a benefice dissolved by a pastoral scheme or deemed to be vacated by virtue of section 25, the archdeacon of an archdeaconry dissolved by a pastoral scheme and the holder of an office of vicar in a team ministry whose office is abolished by or as the result of a pastoral scheme or order, shall be entitled to compensation for any loss suffered by him in consequence of the dissolution or vacation of the benefice or archdeaconry or the abolition of the office, as the case may be.
- 2 Where the incumbent of a benefice for which a team ministry is established is designated or appointed the first rector in the team ministry, but the scheme provides that his office shall be held for a term of years, the incumbent shall, if he is required to vacate his office on the expiration of any term for which it is held, be entitled to compensation for any loss suffered by him in consequence thereof.

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- 3 Where the incumbent of a benefice, being a benefice for the area of which a team ministry is established or a benefice dissolved by a pastoral scheme, is designated or chosen as the first holder of any office of vicar in a team ministry, he shall, if he is required to vacate the office on the expiration of any term for which it is held, be entitled to compensation for any loss suffered by him in consequence thereof.
- 4 If the incumbent of any benefice or the archdeacon of an archdeaconry or a vicar in a team ministry agrees with the pastoral committee that, if he resigns his benefice, archdeaconry or office in order to enable a pastoral scheme or order to come into operation or to facilitate its coming into operation, compensation will be payable for any loss suffered by him in consequence of his resignation, he shall be entitled, on resignation after the confirmation of the scheme by Order in Council or the making of the order, as the case may be, to compensation for any such loss.
- 5 Without prejudice to the generality of the foregoing provisions, the loss suffered by any such incumbent or archdeacon or vicar as aforesaid shall include loss arising from his ceasing to occupy the parsonage house or other official residence of the incumbent, archdeacon or vicar and any expenses arising from his change of residence.
- 6 The right to and the amount of compensation payable under this Schedule shall be determined in the first instance by the pastoral committee, but the person claiming the compensation (hereinafter called “the claimant”) shall have a right of appeal to the Appeal Tribunal constituted under this Schedule for the relevant province.
- 7 (1) The compensation shall consist of periodical payments or a lump sum payment, or partly of one and partly of the other, and compensation in the form of periodical payments shall not be assignable.
- (2) The pastoral committee may, pending the final determination of a claim for compensation, make payments on account to the claimant.
- 8 In determining whether any claimant has suffered loss giving a right to compensation and, if so, the amount thereof, the pastoral committee and the Appeal Tribunal—
- (a) shall take into account the emoluments of any ecclesiastical office (including another benefice) to which the claimant has been or is to be appointed, or of any other regular remunerated employment in which he is or is to be engaged; and
- (b) if he refuses without good and sufficient reason to accept an ecclesiastical office which in the opinion of the committee or Tribunal is reasonably comparable to the benefice or office in respect of which the compensation is claimed, may take into account the emoluments of the office so refused.
- 9 If any person who is receiving compensation under this Schedule in the form of periodical payments is appointed to any ecclesiastical office or becomes engaged in any remunerated employment, or refuses any such office as is mentioned in sub-paragraph (b) of the last foregoing paragraph, the pastoral committee may suspend the periodical payments or reduce the amount thereof, having regard to the emoluments of the office, but the person affected shall have a right of appeal to the Appeal Tribunal.
- 10 Any person who has been refused compensation under this Schedule or is receiving or has received such compensation may apply to the pastoral committee for a grant or renewal of such compensation or, as the case may be, an increase of such compensation (whether by way of an increase of periodical payments or a lump

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sum payment or both), on the ground that circumstances of which account was taken under paragraph 8 or paragraph 9 have materially altered to his disadvantage, and the pastoral committee may grant or renew such compensation or make such increase thereof on that ground, and an appeal shall lie to the Appeal Tribunal against the refusal of any such application.

11 If any person who is claiming or receiving or has received compensation under this Schedule—

- (a) executes a deed of relinquishment under the ^{M5}Clerical Disabilities Act 1870; or
- (b) becomes a member of a religious body which is not in communion with the Church of England; or
- (c) becomes disqualified under the Ecclesiastical Jurisdiction Measures 1963 and 1974 from holding preferment in the Church of England;

the pastoral committee may refuse the claim or, as the case may be, may order, subject to a right of appeal to the Appeal Tribunal, that no further payment of compensation shall be made to him under this Schedule.

Marginal Citations

M5 1870 c. 91.

12 It shall be the duty of every claimant and every applicant under paragraph 10 and every person who is receiving compensation under this Schedule by way of periodical payments, to disclose to the pastoral committee any ecclesiastical office to which he has been appointed or which has been offered to him, and any other remunerated employment in which he is or is to be engaged, and any such matter as is mentioned in the foregoing paragraph, and if he fails to do so and it appears to the pastoral committee that in consequence they have made payments which otherwise they would not have made or payments in excess of those that they would otherwise have made, they may, without prejudice to their powers under paragraphs 9 and 11, direct the repayment of the amount of the payments or excess or such part thereof as they think just, and that amount shall be recoverable as a debt due to the diocesan board of finance:

Provided that an appeal shall lie to the Appeal Tribunal against any such direction.

13 (1) Subject as hereinafter provided, where any benefice, archdeaconry or office is dissolved, abolished, vacated or resigned in the circumstances mentioned in paragraphs 1 to 4—

- (a) any period thereafter and before his retirement during which he is not in pensionable service within the meaning of the ^{M6}Clergy Pensions Measure 1961 shall be deemed for the purposes of the said Measure and this paragraph to be a period of pensionable service, except that any period after the happening of any of the events mentioned in paragraph 11 and, in the case of a vicar in a team ministry, any period after the date on which his term of office would have ended, shall be excluded;
- (b) on attaining the retiring age within the meaning of the said Measure, he shall be deemed to retire for the purposes of the said Measure and this paragraph, unless he is then in actual pensionable service, and, if his total period of pensionable service is less than the qualifying period of such service for

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the purposes of the said Measure, it shall be deemed to be increased to that period;

- (c) the pastoral committee may, if he is deemed to retire as aforesaid and his total period of pensionable service is less than the prescribed period, add to his pension and the pension (if any) of his [^{F21}surviving spouse] or dependent periodical payments not exceeding the amount necessary to bring the pension up to the amount that it would have been if the total period had been the prescribed period.

In this sub-paragraph “the prescribed period”, in relation to a person who is deemed to retire for the purposes of the said Measure and this paragraph, means the minimum period of pensionable service the performance of which by him would entitle him to a pension at the highest rate applicable in his case.

- (2) The foregoing provisions of this paragraph shall apply in relation to any lump sum payable in accordance with any rules made under section 3 of the ^{M7}Clergy Pensions (Amendment) Measure 1967 to a person entitled to a pension under the said Measure of 1961 as they apply in relation to a pension thereunder.
- (3) The pastoral committee may, with the agreement of the Church of England Pensions Board and the incumbent, archdeacon or vicar in a team ministry or (if he is dead) his [^{F21}surviving spouse] or dependant make such modification of the provisions of this paragraph or substitute such other provisions as may appear to the committee to be more appropriate to the particular circumstances of the case and not less advantageous to the incumbent, archdeacon or vicar or his [^{F21}surviving spouse] or dependant.
- (4) Compensation shall not be payable for any loss which the incumbent, archdeacon or vicar in a team ministry might suffer by reason of the provision in sub-paragraph (1) (b) that on attaining the retiring age within the meaning of the said Measure of 1961 he is deemed to retire for the purposes of that Measure and this paragraph, and, except as provided by sub-paragraph (1)(c), compensation shall cease to be payable when he attains that age.
- (5) In determining the amount of the compensation, if any, to which the incumbent, archdeacon or vicar in a team ministry is entitled under this Schedule in respect of any period before he retires or is deemed to retire for the purposes of the said Measure of 1961 and this paragraph, any benefit which may accrue to him by virtue of sub-paragraph (1) shall be disregarded.
- (6) Any reference in this paragraph to the said Measure of 1961 shall be construed as a reference to that Measure, as amended by any regulations approved under section 6 of the ^{M8}Clergy Pensions (Amendment) Measure 1972.

Textual Amendments

F21 Words in Sch. 4 para. 13(1)(c)(3) substituted (1.2.1994) by 1993 Measure No. 2, s. 10, Sch. 3 para.8; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York

Marginal Citations

M6 1961 No. 3.
M7 1967 No. 1.
M8 1972 No. 5.

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- 14 (1) The functions of the pastoral committee under this Schedule shall not be delegated to a sub-committee.
- (2) At any meeting of the pastoral committee at which a determination or decision under this Schedule is made or at which the person affected by such a determination or decision is interviewed, the members present shall include—
- (a) either the bishop or a suffragan bishop, and
 - (b) the member representing the diocesan board of finance:

Provided that, if the last-mentioned member is not available for any meeting, another member or officer of the said board (who need not be a member of the pastoral committee) may be nominated by the board to act in the place of the said member at the meeting.

- 15 (1) For the purposes of this Schedule there shall be an Appeal Tribunal for each of the Provinces of Canterbury and York, which shall be constituted as follows:—
- (a) The Dean of the Arches and Auditor shall be the chairman and the Vicar-General of each of the Provinces of Canterbury and York shall be deputy chairmen and one or other of the three (but not more than one) shall sit on each appeal and shall preside:

Provided that if none of the three is available to preside over an appeal, a chancellor of a diocese nominated by the Dean of the Arches and Auditor or, in his absence or illness, by the Vicar-General of the Province concerned shall preside over the appeal.

- (b) A panel of twelve persons shall be appointed [^{F22}from among the members of the Lower House of the Convocation of the Province concerned by, in the case of the Convocation of Canterbury, the Standing Committee of the Lower House and, in the case of the Convocation of York, the body of Assessors of the Lower House of that Convocation], in such manner as that House may determine, and four persons from the panel shall be nominated as aforesaid for each appeal.
 - (c) A panel of twelve persons shall be appointed by [^{F23}the Standing Committee of] the House of Laity of the General Synod from among the members of that House, in such manner as that House may determine, not less than one-half of whom [^{F24}have a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)], and two persons from the panel shall be nominated as aforesaid for each appeal.
- (2) [^{F25}The persons appointed from among the members of] the Lower House of the Convocations or the House of Laity as aforesaid shall be appointed for the lifetime of those Convocations or that House of Laity and, on a casual vacancy, another member of the House concerned shall be appointed in [^{F25}place of the person vacating office, in the same manner as that person was appointed], for the remainder of that lifetime:
- Provided that the persons appointed as aforesaid shall, when a new House falls to be elected, continue to hold their appointments until the first Session of the new House, and any such person who has heard the whole or a part of an appeal may continue as a member of the Tribunal until the determination thereof.
- (3) The Commissioners shall appoint a secretary to the Appeal Tribunal for each province, and the same person may be appointed for both Tribunals.

Status: Point in time view as at 01/05/1996.

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- (4) The expenses of an Appeal Tribunal in connection with any appeal shall be paid out of moneys standing to the credit of the diocesan pastoral account of the diocese from which the appeal is brought.

Textual Amendments

- F22** Words in Sch. 4 para. 15(1)(b) substituted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 23(a)**; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.
- F23** Words in Sch. 4 para. 15(1)(c) inserted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 23(b)**; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.
- F24** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 54**
- F25** Words in Sch. 4 para. 15(2) substituted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 23(c)**; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

- 16 (1) The Commissioners may make rules prescribing the procedure to be followed in claiming and determining rights to and amounts of compensation under this Schedule, and in altering, terminating or suspending payments of compensation, [^{F26}and also (except so far as it is regulated by rules made under [^{F27}the Church of England (Legal Aid) Measure 1994]) the procedure in proceedings before the Appeal Tribunal and in any other proceedings under this Schedule.]
- (2) Rules made in pursuance of this paragraph shall be laid before the General Synod, and shall not come into operation unless and until they have been approved by the General Synod; and the ^{M9}Statutory Instruments Act 1946 shall apply to any rules so approved as if they were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F26** Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 14(1), **Sch. 2 para. 4**.
- F27** Words in Sch. 4 para. 16(1) substituted (1.9.1994) by 1994 No. 3, s. 7(2), **Sch. 2 para. 2**; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York.

Marginal Citations

- M9** 1946 c. 36.

17

F28

Textual Amendments

- F28** Sch. 4 para. 17 repealed by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 18(2), **Sch. 3**

Status: Point in time view as at 01/05/1996.

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- 18 Payments of compensation under this Schedule shall be made by the diocesan board of finance and charged either on the capital or the income account of the diocesan stipends fund, as may be agreed by the Commissioners and the diocesan board of finance.

SCHEDULE 5

Sections 41, 42 and 44.

STATUTORY BODIES APPOINTED FOR PURPOSES OF PART III OF MEASURE

Advisory Board for Redundant Churches

- 1 Neither the chairman nor any other member of the Advisory Board for Redundant Churches shall be a member of the Board of Governors of the Church Commissioners or of any committee constituted by the ^{M10}Church Commissioners Measure 1947, as amended by the ^{M11}Church Commissioners Measure 1964, or appointed by the said Board of Governors, or of the pastoral committee of any diocese.

Marginal Citations

M10 1947 No. 2.

M11 1964 No. 8.

- 2 The members of the Advisory Board for Redundant Churches shall hold office in accordance with the terms of their appointment and any member shall, on ceasing to hold office, be eligible for re-appointment.
- 3 The Board may act notwithstanding a vacancy among its members.
- 4 The quorum of the Board shall be three or such greater number as the Board may determine, and the Board shall regulate its own procedure.

Diocesan redundant churches uses committees

- 5 The diocesan redundant churches uses committee of a diocese shall consist of—
- (a) a chairman to be appointed by the bishop;
 - (b) a member to be appointed by the diocesan board of finance;
 - (c) a member to be appointed by the pastoral committee;
 - (d) a member to be appointed by the diocesan advisory committee for the care of churches after consultation with the Council for the Care of Churches;
 - (e) such other members not exceeding three as the bishop's council and standing committee of the diocese may appoint, at least one of whom shall be a member of the diocesan synod.
- 6 The chairman and other members of the committee shall hold office for five years, but shall be eligible for re-appointment on the termination of any period of office.
- 7 The bishop may appoint, or the committee may co-opt, other members upon terms limiting their functions to specified matters.

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- 8 The bishop may appoint a member of the committee who is to have special responsibility for giving advice as to the manner in which the contents of any church to which a redundancy scheme applies shall be disposed of.
- 9 Any of the bodies by whom a member of the committee is appointed under paragraph 5 may appoint another person to act as alternate to the member so appointed.
- 10 The secretary of the committee shall be appointed by the diocesan board of finance.
- 11 The committee may act notwithstanding any vacancy among its members.
- 12 The quorum of the committee shall be three or such greater number as the committee may determine, and the committee shall regulate its own procedure.

Redundant Churches Fund

- 13 The members of the Redundant Churches Fund shall hold office in accordance with the terms of their appointment, and any member shall, on ceasing to hold office, be eligible for re-appointment.
- 14 The Fund may act notwithstanding any vacancy among its members.
- 15 The quorum of the Fund shall be three or such greater number as the Fund may determine, and the Fund may regulate its own procedure.

SCHEDULE 6

Section 65.

DISPOSAL OF HUMAN REMAINS

Modifications etc. (not altering text)

- C3** Sch. 6 power to apply conferred (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 22(2), (with s. 31(6)); [Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York](#).

- 1 The body or person in whom the building, part of a building or land in question is vested or to whom it is leased or licensed (hereinafter referred to as “the landowner”) shall, before removing any human remains or any tombstones, monuments or memorials commemorating the deceased persons—
- (a) publish in a newspaper circulating in the locality a notice of intention to do so at least once during each of two successive weeks; and
 - (b) display a like notice in a conspicuous place where the remains are interred; and
 - (c) serve a like notice on the bishop and on the Commonwealth War Graves Commission (hereinafter referred to as “the Commission”); and
 - (d) if the remains were interred within twenty-five years before the date of the first publication of the notice, serve a like notice on the personal representatives or next of kin (or, in the event of their being untraceable, any known relative) of the deceased person.
- 2 Any notice required to be published and served as aforesaid shall contain—

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- (a) the address at which particulars of the deceased persons and of any tombstones, monuments or other memorials commemorating them may be inspected;
 - (b) the name of the burial ground or crematorium where it is proposed to reinter or cremate such remains and the manner in which it is proposed to dispose of such tombstones, monuments or other memorials;
 - (c) a statement as to the right of the personal representatives or relatives of any deceased person or, in relation to any commonwealth war burial, the Commission on notice in writing given within a specified time themselves to undertake the removal and reinterment or cremation of the remains of the deceased, and the disposal of any tombstone, monument or other memorial commemorating the deceased within two months from the date of the notice;
 - (d) a statement of any directions given by the Secretary of State with respect to the removal and reinterment or cremation of human remains, and of any requirements imposed by the bishop with respect to the manner of removal, the place and manner of reinterment or cremation, and the disposal of tombstones, monuments and other memorials;
 - (e) a statement as to the extent to which the landowner is required by this Schedule to defray the expenses of such removal and reinterment or cremation or disposal.
- 3 (1) The personal representatives or relatives of any deceased person whose remains are interred in the land or, in the case of any commonwealth war burial, the Commission may, on giving the required notice, themselves remove and reinter any such remains or cremate them in any crematorium and may dispose of any tombstone, monument or other memorial commemorating the deceased, and the landowner shall defray the [^{F29}reasonable cost of such removal and reinterment or cremation or disposal; and if any question arises as to what is a reasonable sum for that purpose the decision of the Commissioners shall be conclusive].
- (2) If the removal and reinterment or cremation or disposal, as the case may be, has not been carried out by the personal representatives or relatives or the Commission in accordance with the provisions of this Schedule within two months from the date of the required notice, the landowner may carry out the removal and reinterment or cremation or disposal as if the required notice had not been given.

Textual Amendments

F29 Words in [Sch. 6 para. 3\(1\)](#) substituted (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992 \(No. 1\)](#), s. 17(1), [Sch. 3 para.24](#); Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

- 4 Any human remains interred in the building or land which have not been removed and reinterred or cremated by the personal representatives or relatives of the deceased person or the Commission within the said two months shall, on removal by the landowner, be reinterred in such land as may be indicated as being reasonably available for the purpose by the bishop, and failing any such land being so indicated, shall be reinterred in any cemetery or burial ground or shall be cremated in any crematorium.
- 5 Any tombstone, monument or other memorial commemorating any deceased person whose remains are reinterred or cremated in accordance with the provisions

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- of the last preceding paragraph may, where reasonably practicable, be removed and re-erected by the landowner over the grave in the burial ground where the remains are reinterred or on some other appropriate site.
- 6 Any tombstone, monument or other memorial not disposed of in accordance with paragraph 3 or 5 may with the agreement of the bishop given after consultation with the diocesan advisory committee for the care of churches be allowed to remain where it is or be removed and re-erected in such place in the building or land as the bishop may direct.
- 7 The removal of all human remains shall be effected, and the remains reinterred or cremated, in accordance with the directions of the Secretary of State.
- 8 Upon any removal of remains a certificate of removal and reinterment or cremation shall be sent to the Registrar General by the landowner giving the dates of removal and reinterment or cremation respectively and identifying the place from which the remains were removed and the place in which they were reinterred or cremated showing the particulars of each removal separately, and every such certificate shall be deposited at the General Register Office with the miscellaneous records in the custody of the Registrar General.
- 9 Any tombstone, monument or other memorial not disposed of in accordance with this Schedule shall be offered by the landowner to the bishop for disposal as he thinks fit, and the bishop shall consult the diocesan advisory committee for the care of churches with respect to such disposal and if the tombstone, monument or other memorial is not accepted by the bishop for preservation it shall be broken and defaced before being otherwise disposed of.
- 10 Where any tombstone, monument or other memorial is removed from the land, the landowner shall within two months from the date of removal—
- (a) deposit with the council of the district, or in the case of land in Greater London with the Common Council of the City of London, or the council of the London borough, a record of the removal with sufficient particulars to identify the memorial (including a copy of any inscription thereon) and showing the date and manner of its removal and disposal and the place (if any) to which it is transferred;
 - (b) send to the Registrar General a copy of such record for deposit with the miscellaneous records in the custody of the Registrar General.
- 11 The requirements of this Schedule shall be in addition to such reasonable conditions if any as may be imposed in the case of consecrated ground by the bishop with respect to the manner of removal and the place and manner of reinterment or cremation of any human remains and the disposal of any tombstones, monuments or other memorials, and such conditions shall be complied with as if they formed part of this Schedule.
- 12 In this Schedule “commonwealth war burial” means a burial of any member of the forces of His Majesty fallen in the war of 1914-1921 or in the war of 1939-1947.

Status: Point in time view as at 01/05/1996.

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SCHEDULE 7

Section 68.

SEQUESTRATION OF BENEFICE PROPERTY DURING SUSPENSION PERIOD

- 1 [F³⁰During any suspension period the sequestrators] in addition to exercising any powers vested in them by the M¹²Benefices (Sequestrations) Measure 1933 or by the general law relating to sequestrations, may, with the consent of the bishop, exercise in relation to any property of the benefice any other power which an incumbent would have if the benefice were full, not being a power which by the provisions of any Act or Measure is exercisable during a vacancy by the bishop or the Commissioners.

Textual Amendments

F30 Words in Sch. 7 para. 1 substituted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), Sch. 3 para. 25(a); Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

Marginal Citations

M12 1933 No. 4.

- 2 (1) Notwithstanding anything to the contrary contained in any Act or Measure, the sequestrators shall, subject to the provisions of sub-paragraph (2), apply the income of the benefice accruing during the vacancy—
- (a) in payment to the bishop of all expenses incurred by him under sections 67 and 68;
 - (b) in payment of all expenses properly incurred in the collection of the income of the benefice;
 - (c) in payment of all expenses incurred in making provision for the performance of the ecclesiastical duties of the benefice, including that of accommodation;
 - (d) in payment of all expenses properly incurred in the exercise of the powers or the performance of the duties by law belonging to sequestrators or conferred or imposed on them by the Benefices (Sequestrations) Measure 1933, or by this Measure, including the payment of any sequestrator who is professionally qualified his proper professional charges for work undertaken by him;
 - (e) in payment of the stipend and expenses of accommodation of an assistant curate.
- (2) During the course of the suspension period the sequestrators may, with the consent of the bishop, and shall, on the direction of the bishop, pay part of the balance in their hands to the Commissioners.
- (3) At the close of the sequestration the sequestrators shall pay the balance in their hands, as certified by the bishop or some person duly authorised by him, to the Commissioners.
- 3 Moneys received by the Commissioners from the sequestrators under paragraphs 2(2) or (3) shall be allocated to the income account of the diocesan stipends fund.

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- [^{F314} Where a suspension period immediately follows a period during which a benefice has been vacant, the foregoing provisions of this Schedule shall apply to any balance in the hands of the sequestrators at the beginning of the suspension period as if it were income of the benefice accruing during that period.]

Textual Amendments

- F31** Sch. 7 para. 4 substituted (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992 \(No. 1\)](#), s. 17(1), [Sch. 3 para. 25\(b\)](#); Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

- 5 The sequestrators shall annually at such date as the bishop may direct and as soon as possible after the close of the sequestration render to the bishop duly audited income and expenditure accounts and shall furnish such information with respect thereto as the bishop may require.
- 6 Where, on the termination of a suspension period in respect of any benefice, there immediately follows a further period during which the profits of the benefice are sequestrated, the suspension period shall, for the purposes of this Schedule, be deemed to extend to and include that further period.

SCHEDULE 8

Transitional Provisions

- 1 (a) Any pastoral scheme, pastoral order or redundancy scheme which is pending at the commencement of this Measure shall continue to be dealt with up to and including the date of confirmation of the scheme or the making of the Order as though this Measure had not been passed.
- (b) Section 24(3) of the ^{M13}Pastoral Measure 1968 shall continue to apply to a pastoral scheme which is pending at the commencement of this Measure, and section 25(3) of this Measure shall not apply thereto.

Marginal Citations

- M13** 1968 No. 1.

- 2 If before the commencement of this Measure any notice has been served under paragraph 1(c) of Schedule 6 to the Pastoral Measure 1968, containing the statement required by paragraph 2(c) of that Schedule, the requirements of paragraphs 1(c) and 2(c) of Schedule 6 of this Measure shall be treated as having been complied with for the purposes of section 65 of this Measure.
- 3 Where immediately before the commencement of this Measure any person lawfully held more than one office by virtue of the first paragraph of section 88(5) of the Pastoral Measure 1968, he shall be entitled to continue to hold those offices, in accordance with that paragraph, notwithstanding anything in section 85 of this Measure; but if he accepts and is admitted to another office this paragraph shall cease to apply to him and, if he then holds offices in contravention of section 85, he shall be deemed to vacate the office or offices held by him before his admission to the new office.

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- 4 Section 15 of the ^{M14}Reorganisation Areas Measure 1944 shall continue to apply to annuities granted thereunder and still payable immediately before the commencement of this Measure.

Marginal Citations

M14 1944 No. 1.

- 5 Where any such scheme or order as is mentioned in paragraph 9(1) is not in operation at the commencement of this Measure because its operation is dependent on the occurrence of a vacancy or vacancies in any benefice or benefices, and the incumbent of the benefice or any of the benefices concerned agrees with the pastoral committee that, if he resigns the benefice, compensation will be payable for any loss suffered by him in consequence of his resignation, he shall be entitled on resignation to compensation determined in accordance with Schedule 4 to the ^{M15}Pastoral Measure 1968 for any such loss.

Marginal Citations

M15 1968 No. 1.

- 6 Where a building has been declared redundant before the commencement of this Measure in a case falling within section 49(1), the period which must elapse before the Commissioners prepare a redundancy scheme shall be twelve months and in such a case, for the reference in section 50(1) to six months, there shall be substituted a reference to twelve months.
- 7 In any case where, before the commencement of this Measure—
- (a) proposals have been submitted to the Commissioners under Part I of the Pastoral Measure 1968, or
 - (b) a request has been made for an enquiry under Part I of the Incumbents (Vacation of Benefices) Measure 1977,
- the right of any person to compensation for any loss suffered in consequence thereof and the amount of any such compensation shall be determined as though this Measure had not been passed.
- 8 The requirements of paragraph 5 of Schedule 1, that not less than one-half of all the members of the pastoral committee of a diocese shall be elected and that the number of such members who are of the clergy and the number thereof who are of the laity shall, as nearly as may be, be the same, and that not more than one-third of such members shall be ex-officio members appointed under paragraph 3 of that Schedule shall not apply to a pastoral committee until the date of the election of members of that committee next held after the commencement of this Measure.
- 9 (1) Subject to sub-paragraph (2) the powers conferred by section 39 shall be exercisable in relation to instruments, schemes or orders made and confirmed before 1st April 1969 under section 22 of the ^{M16}New Parishes Measure 1943, the Reorganisation Areas Measure 1944 or the ^{M17}Pastoral Reorganisation Measure 1949 as if such instruments or orders were orders made under this Measure and as if such schemes were schemes made under this Measure.
- (2) Sub-paragraph (1) shall not apply to a scheme or part of a scheme providing for the closure, demolition or appropriation to a use or uses of a church or part of a church but

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such scheme or part shall for the purposes of section 57 of this Measure be deemed to be a redundancy scheme made under this Measure and any deeds or regulations made under section 24 of the ^{M18}Union of Benefices Measure 1923 relating to such scheme or part shall be deemed to be provisions contained in that scheme or part; but section 61(1) of this Measure shall not apply unless an amending redundancy scheme so provides.

Marginal Citations

M16 1943 No. 1.

M17 1949 No. 3.

M18 1923 No. 2.

- 10 If any difficulty or question arises as to the effect of anything given or done under section 22 of the ^{M19}New Parishes Measure 1943, the ^{M20}Reorganisation Areas Measure 1944 or the ^{M21}Pastoral Reorganisation Measure 1949, it shall be determined by directions of the Commissioners given under their seal.

Marginal Citations

M19 1943 No. 1.

M20 1944 No. 1.

M21 1949 No. 3.

- 11 For the purposes of this Schedule,
- (a) a pastoral scheme or pastoral order shall be deemed to be pending at the commencement of this Measure if it has at least reached the following stage of the procedure applicable to that scheme or order, that is to say, the submission to the Commissioners of proposals—
 - (i) under section 3(6), or section 13(1) or (5) of the ^{M22}Pastoral Measure 1968
 - (ii) under the said section 3(6), as applied by section 12(5) of that Measure;
 - (b) a redundancy scheme shall be deemed to be pending at the commencement of this Measure if the Commissioners have served a copy of the draft scheme on the bodies referred to in section 50(3) of the Pastoral Measure 1968.

Marginal Citations

M22 1968 No. 1.

- 12 Any right of patronage created under any of the provisions repealed by the Pastoral Measure 1968 or created under that Measure shall continue to be incapable of sale and any transfer thereof for valuable consideration shall be void.
- 13 In this Schedule references to the Pastoral Measure 1968 are references to that Measure disregarding the amendments made by the ^{M23}Pastoral (Amendment) Measure 1982.

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Marginal Citations

M23 1982 No. 1

- 14 Nothing in this Schedule shall be taken as prejudicing the application of Sections 16 and 17 of the ^{M24}Interpretation Act 1978.

Marginal Citations

M24 1978 c. 30.

SCHEDULE 9

Section 93.

REPEALS

Provision	Short title	Extent of repeal
1968 No. 1.	Pastoral Measure 1968.	The whole Measure.
1970 No. 2.	Sharing of Church Buildings Measure 1970.	Section 1.
1972 c. 70.	The Local Government Act 1972.	In Schedule 29, paragraph 39.
1976 No. 4.	Endowments and Glebe Measure 1976.	Section 38(4) and (5).
1978 No. 2.	Parochial Registers and Records Measure 1978.	Section 19(4).
1982 No. 1.	Pastoral (Amendment) Measure 1982.	The whole Measure.
1983 No. 2.	Church of England (Miscellaneous Provisions) Measure 1983.	Section 11.

Status:

Point in time view as at 01/05/1996.

Changes to legislation:

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