



# Patronage (Benefices) Measure 1986

1986 No. 3

## PART I

### REGISTRATION AND TRANSFER OF RIGHTS OF PATRONAGE

#### **1 Registration of patrons.**

- (1) Subject to the provisions of this Measure, the registrar of each diocese shall compile and maintain a register indicating in relation to every benefice in the diocese the person who is the patron of the benefice and containing such other information as may be prescribed.
- (2) Except as provided by this Measure, no person shall be entitled, after the expiration of the period of fifteen months beginning with the date on which this section comes into force, to exercise any of the functions of a patron of a benefice unless he is registered as patron of that benefice, and the said period is in this Measure referred to as the “registration period”.
- (3) The provisions of Schedule 1 to this Measure shall have effect with respect to the registration of patrons of benefices and other matters relating thereto.
- (4) The registration under this Measure of any person as a patron of a benefice shall be conclusive evidence of the matters registered.
- (5) Any register maintained under this Measure shall be open to inspection by the public at all reasonable times.

#### **2 Registration of patronage belonging to an office.**

In the case of a right of patronage of a benefice which belongs to an office, the duty of the registrar of the diocese under section 1(1) of this Measure to register in relation to that benefice the person who is the patron thereof shall be construed as a duty to register that office as a patron of that benefice; and section 1(4) shall apply in relation to an office which is registered as a patron as it applies in relation to a person who is so registered.

*Status: Point in time view as at 11/06/2008.*

*Changes to legislation: Patronage (Benefices) Measure 1986 is up to date with all changes known to be in force on or before 09 June 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)*

### **3 Transfer of rights of patronage.**

- (1) No right of patronage of a benefice shall be capable of sale and any transfer thereof for valuable consideration shall be void.
- (2) Subject to the provisions of this section, a right of patronage vested in an ecclesiastical corporation shall not be transferred to any body or person unless—
  - (a) the consent of the bishop or, if the bishop is the proposed transferor, the consent of the archbishop has been obtained; or
  - (b) the transfer is made by a pastoral scheme or order.
- (3) Where a right of patronage of a benefice is proposed to be transferred otherwise than by a pastoral scheme or order, the proposed transferor shall send to the bishop (or, if the bishop is the proposed transferor, to the archbishop) and to the registrar of the diocese a notice stating—
  - (a) his intention to transfer that right;
  - (b) the name and address of the proposed transferee; and
  - (c) particulars of the terms of the proposed transfer.
- (4) On receiving a notice under subsection (3) above, the registrar shall send to the secretary of the parochial church council of the parish concerned a notice informing him of the proposed transfer and stating that before the expiration of the period of one month beginning with the date on which the notice is sent to him representations with respect to the proposed transfer may be made to the registrar by the parochial church council; and the registrar shall notify the bishop and the proposed transferor, or, if the bishop is the proposed transferor, the bishop and the archbishop, of any representations made to him within that period.
- (5) After the expiration of the period of one month mentioned in subsection (4) above, the bishop or, if the bishop is the proposed transferor, the archbishop shall consider any representations made under that subsection and, whether or not any such representations have been made, the bishop or archbishop may request the proposed transferor (either personally or through some person appointed by the proposed transferor) to confer with him (or with some person appointed by the bishop or, as the case may be, the archbishop) as to the proposed transfer; and the bishop or, as the case may be, the archbishop shall not give any consent required under this section until after any such representations have been considered and any such request has been complied with.
- (6) Any transfer of a right of patronage otherwise than by a pastoral scheme or order shall be in the prescribed form.
- (7) Where a right of patronage of a benefice is transferred otherwise than by a pastoral scheme or order, the registrar shall not register the transferee as a patron of that benefice unless—
  - (a) he is satisfied that the requirements of this section have been complied with; and
  - (b) an application for registration is made in accordance with Schedule 1 to this Measure before the expiration of the period of twelve months from the date of the execution of the transfer;

and if no such application for registration is made before the expiration of that period of twelve months the transfer shall be of no effect.

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- (8) No transfer of a right of patronage of a benefice shall take effect during the period of a vacancy in that benefice [<sup>F1</sup>unless the benefice is one to which a suspension period (within the meaning of section 67 of the Pastoral Measure 1983) applies and a person holds office as priest in charge for the benefice].
- (9) In this section “transfer” means a transfer *inter vivos* including a transfer by way of exchange; but [<sup>F2</sup>except in subsection (6)] it does not include a transfer by operation of law, a transfer upon the appointment of a new trustee or a transfer by the personal representatives of a deceased person.

#### Textual Amendments

- F1** Words in s. 3(8) inserted (1.9.2000) by 2000 Measure No. 1, s. 17(a); Instrument dated 30.8.2000 made by the Archbishops of Canterbury and York
- F2** Words in s. 3(9) inserted (1.9.2000) by 2000 Measure No. 1, s. 17(b); Instrument dated 30.8.2000 made by the Archbishops of Canterbury and York

#### 4 Rectification of register.

- (1) The registrar of a diocese may rectify an entry in the register of patrons in any case—
- (a) where all the persons interested agree to the rectification of the entry; or
  - (b) where the registrar decides that the entry should be rectified—
    - (i) because a person is, or is not, entitled to be registered as patron of a benefice, or
    - (ii) because information registered as to the exercise of a right of presentation to a benefice is incorrect,and, in either case, no appeal against the registrar’s decision has been brought within the period specified in paragraph 8 of Schedule 1 to this Measure or the appeal has been dismissed; or
  - (c) where any rectification of the entry is required by reason of a decision of the chancellor of the diocese under that Schedule.
- (2) Where in the case of an entry in the register relating to any benefice—
- (a) the entry has been adverse to the claim of any person for a period of more than thirty years, or
  - (b) if the period of thirty years from the end of the registration period has not expired, the benefice has been held adversely to the claim of any person for a period of more than thirty years,
- then, notwithstanding anything in subsection (1) above or in paragraph 5 of Schedule 1 to this Measure, no rectification of that entry may be made in favour of that person unless all the persons interested agree to that rectification.
- (3) Section 25 of the <sup>M1</sup>Limitation Act 1980 (time limits for actions to enforce advowsons) shall cease to have effect at the end of the registration period.

#### Marginal Citations

- M1** 1980 c. 58.

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## 5 Rights of patronage exercisable otherwise than by registered patron.

- (1) Where an office is registered as a patron of a benefice, the person who is for the time being the holder of that office shall, subject to the provisions of Part II of this Measure, be entitled to discharge all the functions of a patron of that benefice.
  - (2) Where a registered patron of a benefice dies then, until the person to whom the right of patronage is to be transferred is registered as a patron of that benefice, the personal representatives of the deceased patron shall, subject to the provisions of Part II of this Measure, be entitled to discharge all the functions of a patron of that benefice.
  - (3) A registered patron of a benefice may by an instrument creating a power of attorney confer on the donee of the power authority to discharge on his behalf all the functions of a patron of that benefice, and where such a power is created the donee shall, subject to the provisions of Part II of this Measure, be entitled to discharge those functions until the power is revoked.
- [<sup>F3</sup>(3A) The reference in subsection (3) to a power of attorney does not include an enduring power of attorney or lasting power of attorney (within the meaning of the Mental Capacity Act 2005).]
- (4) Any person entitled to discharge any functions in relation to a benefice by virtue of this section shall be entitled to discharge those functions notwithstanding that he is not registered in the register of patrons in relation to that benefice.

### Textual Amendments

- F3** S. 5(3A) inserted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), s. 68(1), [Sch. 6 para. 34\(2\)](#) (with ss. 27-29, 62); S.I. 2007/1897, art. 2(1)(d)

## <sup>F4</sup>6 Abolition of registration of advowsons at Land Registry.

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### Textual Amendments

- F4** S. 6 repealed (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), s. 136(2), [Sch. 13](#) (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

## PART II

### EXERCISE OF RIGHTS OF PRESENTATION

#### *General provisions as to filling of vacancies*

## 7 Notification of vacancies.

- (1) Subject to section 70 of the <sup>M2</sup>Pastoral Measure 1983, where a benefice becomes vacant by reason of the death of the incumbent, the bishop shall, as soon as practicable after he becomes aware of the vacancy, give notice of that fact to the designated officer of the diocese.

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- (2) Subject to section 70 of the Pastoral Measure 1983, where the bishop is aware that a benefice is shortly to become vacant by reason of resignation or cession, the bishop shall give such notice of that fact as he considers reasonable in all the circumstances to the designated officer of the diocese.
- (3) Any notice required to be given to the designated officer under subsection (1) or (2) above shall also be given to the registrar of the diocese, unless he is the designated officer.
- (4) As soon as practicable after receiving a notice under subsection (1) or (2) above the designated officer shall send notice of the vacancy to the registered patron of the benefice and to the secretary of the parochial church council of the parish belonging to the benefice; and any such notice shall include such information as may be prescribed.
- (5) In this Measure “the designated officer”, in relation to a diocese, means such person as the bishop, after consulting the bishop’s council, may designate or, if no person is designated, the secretary of the pastoral committee of the diocese.

**Modifications etc. (not altering text)**

C1 S. 7(4) applied by 1983 gsm 1 s. 70(d) (as amended) (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 5 para. 15\(c\)](#); 2007 No. 3, Instrument made by Archbishops

**Marginal Citations**

M2 1983 No. 1.

## 8 Provisions as to declarations of membership.

- (1) Where the registered patron of a benefice is an individual and is not a clerk in Holy Orders, he shall on receiving notice of a vacancy in the benefice under section 7(4) of this Measure—
  - (a) if able to do so, make a written declaration (in this Measure referred to as “the declaration of membership”) declaring that he is an actual communicant member of the Church of England or of a Church in communion with that Church; or
  - (b) if unable to make the declaration himself, appoint some other person, being an individual who is able and willing to make it or is a clerk in Holy Orders or one of the bodies mentioned in subsection (7) below, to act as his representative to discharge in his place the functions of a registered patron.
- (2) Where the registered patron of a benefice is a body of persons corporate or unincorporate then, on receiving notice of a vacancy in the benefice under section 7(4) of this Measure, that body shall appoint an individual who is able and willing to make the declaration of membership or is a clerk in Holy Orders to act as its representative to discharge in its place the functions of a registered patron.
- (3) Notwithstanding anything in subsection (1) above, where the registered patron of a benefice who is an individual and is not the bishop of a diocese is of the opinion, on receiving notice of a vacancy in the benefice under section 7(4) of this Measure, that he will be unable for any reason to discharge his functions as a patron of that benefice he may, notwithstanding that he is able to make the declaration of membership, appoint

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such a representative as is mentioned in subsection (1)(b) above to discharge those functions in his place.

- (4) Where a benefice the right of presentation to which belongs to an office (other than an ecclesiastical office) becomes vacant, the person who holds that office on the date on which the benefice becomes vacant shall be entitled to present on that vacancy and shall as soon as practicable after that date—
- (a) if able to do so, make the declaration of membership, or
  - (b) if unable to make the declaration himself, appoint some other person, being a person who may be appointed as a representative under subsection (1)(b) above, to act as his representative to discharge in his place the functions of a registered patron.
- (5) Where the right of presentation to a benefice is exercisable by the donee of a power of attorney, the donee shall as soon as practicable after receiving notice of the vacancy in the benefice (or, if the power is created during the vacancy, as soon as practicable after it is created)—
- (a) if able to do so, make the declaration of membership, or
  - (b) if unable to make the declaration himself, appoint some other person, being a person who may be appointed as a representative under subsection (1)(b) above, to act as his representative to discharge in his place the functions of a registered patron.
- (6) Where under the preceding provisions of this section a body mentioned in subsection (7) below is appointed to discharge the functions of a registered patron, that body shall as soon as practicable after being so appointed appoint as its representative an individual who is able and willing to make the declaration of membership or is a clerk in Holy Orders.
- (7) The bodies referred to in subsection (1)(b) above are—
- (a) the dean and chapter or the cathedral chapter of the cathedral church of the diocese;
  - (b) the dean and chapter of the collegiate church of St. Peter in Westminster;
  - (c) the dean and canons of the collegiate church of St. George, Windsor;
  - (d) any diocesan board of patronage;
  - (e) any patronage board constituted by a pastoral scheme;
  - (f) any university in England or any college or hall in such a university; and
  - (g) the colleges of Eton and Winchester.

## **9 Information to be sent to designated officer.**

- (1) Before the expiration of the period of two months beginning with the date on which a benefice becomes vacant, [<sup>F5</sup>or the expiration of three weeks after receiving notice of the vacancy from the designated officer under section 7(4) of this Measure, whichever is later,] a registered patron who is an individual shall send to the designated officer of the diocese—
- (a) the declaration of membership made by him, or
  - (b) the name and address of his representative and the declaration of membership made by that representative.
- (2) Before the expiration of the said period of two months, [<sup>F6</sup>or three weeks, as the case may be,] a registered patron which is a body of persons corporate or unincorporate

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shall send to the designated officer of the diocese the name and address of the individual who is to act as its representative and the declaration of membership made by that representative.

- (3) Where the functions of a registered patron are to be discharged by the holder of an office, subsection (1) above shall apply to the person who holds that office on the date on which the benefice becomes vacant as it applies to the registered patron.
  - (4) Where the functions of a registered patron are to be discharged by the donee of a power of attorney, subsection (1) above shall apply to the donee as it applies to the registered patron except that, if the power is created during the vacancy concerned, there shall be substituted for the period of two months mentioned in that subsection the period of two months beginning with the date on which the power is created, and the information required to be sent under that subsection shall include information as to that date.
  - (5) Where the registered patron or his representative is a clerk in Holy Orders, the registered patron shall, before the expiration of the period during which the declaration of membership is required to be sent to the designated officer under the preceding provisions of this section, notify the designated officer of that fact, and a declaration of membership made by that clerk shall not be required to be sent to the designated officer under this section.
- [<sup>F7</sup>(5A) Subsections (5B) and (5C) apply where the functions of a registered patron are, as a result of paragraph 10 of Schedule 2 to the Mental Capacity Act 2005 (patron's loss of capacity to discharge functions), to be discharged by an individual appointed by the Court of Protection.
- (5B) If the individual is a clerk in Holy Orders, subsection (5) applies to him as it applies to the registered patron.
  - (5C) If the individual is not a clerk in Holy Orders, subsection (1) (other than paragraph (b)) applies to him as it applies to the registered patron.]
- (6) As soon as practicable after receiving information under this section as to the appointment of a representative, the designated officer shall send to the secretary of the parochial church council the name and address of that representative.

#### Textual Amendments

- F5** Words in s. 9(1) inserted (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992 \(No. 1\)](#), s. 17(1), **Sch. 3 para. 26(a)** (with s. 18); Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.
- F6** Words in s. 9(2) inserted (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992 \(No. 1\)](#), s. 17(1), **Sch. 3 para. 26(b)** (with s. 18); Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.
- F7** S. 9(5A)-(5C) inserted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), s. 68(1), **Sch. 6 para. 34(3)** (with ss. 27-29, 62); S.I. 2007/1897, art. 2(1)(d)

## 10 Disqualification for presentation.

Where the registered patron of a benefice or the representative of that patron, is a clerk in Holy Orders or is the wife of such a clerk, that clerk shall be disqualified for presentation to that benefice.

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## 11 Requirements as to meetings of parochial church council.

- (1) Before the expiration of the period of four weeks beginning with the date on which the notice under section 7(4) of this Measure is sent to the secretary of the parochial church council, one or more meetings of that council shall be held for the purposes of—
  - (a) preparing a statement describing the conditions, needs and traditions of the parish;
  - (b) appointing two lay members of the council to act as representatives of the council in connection with the selection of an incumbent;
  - (c) deciding whether to request the registered patron to consider advertising the vacancy;
  - (d) deciding whether to request a meeting under section 12 of this Measure; <sup>F8</sup> . . .
  - (e) deciding whether to request a statement in writing from the bishop describing in relation to the benefice the needs of the diocese and the wider interests of the Church [<sup>F9</sup>and].
  - <sup>F10</sup>(f) deciding whether to pass a resolution under section 3(1) or (2) of the Priests (Ordination of Women) Measure 1993.]
- (2) A meeting of the parochial church council for which subsection (1) above provides shall be convened by the secretary thereof, and no member of that council who is—
  - (a) the outgoing incumbent or the [<sup>F11</sup>spouse][<sup>F12</sup>or civil partner] of the outgoing incumbent, or
  - (b) the registered patron, or
  - (c) the representative of the registered patron,
 shall attend that meeting.
- (3) None of the following members of the parochial church council, that is to say—
  - (a) any person mentioned in subsection (2) above, and
  - (b) any deaconess or lay worker licensed to the parish,
 shall be qualified for appointment under subsection (1)(b) above.
- (4) If before the vacancy in the benefice is filled any person appointed under subsection (1) (b) above dies or becomes unable for any reason to act as the representative of, or ceases to be a member of, the council by which he was appointed, then, except where he ceases to be such a member and the council decides that he shall continue to act as its representative, his appointment shall be deemed to have been revoked and the council shall appoint another lay member of the council (not being a member disqualified under subsection (3) above) to act in his place for the remainder of the proceedings under this Part of this Measure.
- (5) If a parochial church council holds a meeting under subsection (1) above but does not appoint any representatives at that meeting, then, subject to subsection (6) below, two churchwardens who are members of that council (or, if there are more than two churchwardens who are members of the council, two churchwardens chosen by all the churchwardens who are members) shall act as representatives of the council in connection with the selection of an incumbent.
- (6) A churchwarden who is the registered patron of a benefice shall not be qualified under subsection (5) above to act as a representative of the parochial church council or to choose any other churchwardens so to act, and in any case where there is only one churchwarden qualified to act as such a representative that churchwarden may



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act as the sole representative of that council in connection with the selection of the incumbent.

- (7) Any representative of the parochial church council appointed under subsection (1) or (4) above and any churchwarden acting as such a representative by virtue of subsection (5) or (6) above is in this Part of this Measure referred to as a “parish representative”, and where a churchwarden is entitled to act as the sole parish representative any reference in this Part to the parish representatives shall be construed as a reference to that churchwarden.
- (8) A copy of the statement prepared under subsection (1)(a) above together with the names and addresses of the parish representatives shall, as soon as practicable after the holding of the meeting under that subsection, be sent by the secretary of the parochial church council to the registered patron and, unless the bishop is the registered patron, to the bishop.

#### Textual Amendments

- F8** Word in s. 11(1)(d) omitted (1.2.1994) by virtue of 1993 Measure No. 2, s. 10, **Sch. 3 para. 10(a)**; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York
- F9** Word in s. 11(1)(e) inserted (1.2.1994) by virtue of 1993 Measure No. 2, **ss. 3(7)**; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York
- F10** S. 11(1)(f) inserted (1.2.1994) by virtue of 1993 Measure No. 2, **ss. 3(7)**; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York
- F11** Words in s. 11(2)(a) substituted (1.2.1994) by 1993 Measure No. 2, s. 10, **Sch. 3 para. 10(b)**; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York
- F12** Words in s. 11(2)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), art. 1, **Sch. 3 para. 3(2)**

## 12 Joint meeting of parochial church council with bishop and patron.

- (1) Where a request for a meeting under this section is made—
  - (a) by a notice sent by the registered patron or the bishop to the secretary of the parochial church council, or
  - (b) by a resolution of the parochial church council, passed at a meeting held under section 11 of this Measure,a joint meeting of the parochial church council with the registered patron and (if the bishop is not the registered patron) the bishop shall be held for the purpose of enabling those present at the meeting to exchange views on the statement prepared under section 11(1)(a) of this Measure (needs of the parish) and the statement presented under subsection (2) below (needs of the diocese).
- (2) At any meeting held under this section the bishop shall present either orally or, if a request for a statement in writing has been made by the registered patron or the parochial church council, in writing a statement describing in relation to the benefice the needs of the diocese and the wider interests of the Church.
- (3) Any notice given under subsection (1)(a) above shall be of no effect unless it is sent to the secretary of the parochial church council not later than ten days after a copy of the statement prepared under subsection (1)(a) of section 11 of this Measure is received by the persons mentioned in subsection (8) of that section.

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- (4) The outgoing incumbent and the [<sup>F13</sup>spouse][<sup>F14</sup>or civil partner] of the outgoing incumbent shall not be entitled to attend a meeting held under this section.
- (5) A meeting requested under this section shall be held before the expiration of the period of six weeks beginning with the date on which the request for the meeting was first made (whether by the sending of a notice as mentioned in subsection (1)(a) above or by the passing of a resolution as mentioned in subsection (1)(b) above), and at least fourteen days' notice (unless a shorter period is agreed by all the persons concerned) of the time and place at which the meeting is to be held shall be given by the secretary of the parochial church council to the registered patron, the bishop (if he is not the registered patron) and the members of the parochial church council.
- (6) If either the registered patron or the bishop is unable to attend a meeting held under this section, he shall appoint some other person to attend on his behalf.
- (7) The chairman of any meeting held under this section shall be such person as the persons who are entitled to attend and are present at the meeting may determine.
- (8) No meeting requested under this section shall be treated for the purposes of this Measure as having been held unless there were present at the meeting—
  - (a) the bishop or the person appointed by the bishop to attend on his behalf, and
  - (b) the registered patron or the person appointed by the patron to attend on his behalf, and
  - (c) at least one third of the members of the parochial church council who were entitled to attend.
- (9) The secretary of the parochial church council shall invite both the rural dean of the deanery in which the parish is (unless he is the outgoing incumbent) and the lay chairman of the deanery synod of that deanery to attend a meeting held under this section.

#### Textual Amendments

- F13** Word in s. 12(4) substituted (1.2.1994) by 1993 Measure No. 2, s. 10, **Sch. 3 para.11**; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York
- F14** Words in s. 12(4) inserted (5.12.2005) by Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), art. 1, **Sch. 3 para. 3(3)**

### 13 Provisions with respect to the selection of incumbent.

- (1) The registered patron of a vacant benefice shall not make to any priest an offer to present him to a benefice until—
  - (a) if a request for a meeting under section 12 of this Measure has been made, either—
    - (i) that meeting has been held, or
    - (ii) all the parties concerned have agreed that no such meeting should be held, or
    - (iii) the period of six weeks mentioned in section 12(5) has expired; and
  - (b) (whether or not such a request has been made) the making of the offer to the priest in question has been approved—
    - (i) by the parish representatives, and

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- (ii) if the registered patron is a person other than the bishop of the diocese in which the benefice is, by that bishop.
- (2) If, before the expiration of the period of four weeks beginning with the date on which the registered patron sent to the bishop a request for him to approve under paragraph (b) of subsection (1) above the making of the offer to the priest named in the request, no notice is received from the bishop of his refusal to approve the making of the offer, the bishop shall be deemed to have given his approval under that paragraph.
- (3) If, before the expiration of the period of two weeks beginning with the date on which the registered patron sent to the parish representatives a request for them to approve under paragraph (b) of subsection (1) above the making of the offer to the priest 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 that paragraph.
- (4) If—
- (a) the bishop refuses to approve under paragraph (b) of subsection (1) above the making of the offer to the priest named in the request, or
  - (b) any parish representative refuses to approve under that paragraph the making of that offer,
- the bishop or the representative, as the case may be, shall notify the registered patron in writing of the grounds on which the refusal is made.
- (5) Where approval of an offer is refused under subsection (4) above, the registered patron may request the archbishop to review the matter and if, after review, the archbishop authorises the registered patron to make the offer in question, the patron may make that offer accordingly. <sup>F15</sup>Provided that this subsection shall not apply in respect of—
- (a) a parish in a diocese to which a declaration under section 2(1)(b) of the Priests (Ordination of Women) Measure 1993 applies; or
  - (b) a benefice comprising a parish to which a resolution under section 3(1) of that Measure applies, where the refusal is made solely on grounds of gender]
- (6) Where a priest accepts an offer made in accordance with the provisions of this section to present him to a benefice and the registered patron is a person other than the bishop, the patron shall send the bishop a notice presenting the priest to him for admission to the benefice.

#### Textual Amendments

**F15** Words in s. 13(5) inserted (1.2.1994) by 1993 Measure No. 2, s. 10, **Sch. 3 para.12**; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York

## 14 Failure of registered patron to comply with s. 9.

- (1) Where any declaration of membership or other information required to be sent to the designated officer under section 9 of this Measure is not sent to that officer before the expiration of the period during which it is required to be so sent and the registered patron is a person other than the bishop then, after the expiration of that period—
- (a) no meeting shall be held under section 12 of this Measure by reason of any request made by the registered patron and subsections (2), (5), (6) and (8) of that section shall not apply in relation to that patron; and

*Status: Point in time view as at 11/06/2008.*

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- (b) no offer shall be made to any priest under section 13 of this Measure; but the bishop may, subject to subsection (2) below, make to such priest as he thinks fit an offer to collate him to the benefice.
- (2) The bishop shall not make an offer under subsection (1) above unless the making of the offer has been approved by the parish representatives, and subsections (3), (4)(b) and (5) of section 13 of this Measure shall apply in relation to a request sent by the bishop to those representatives by virtue of this subsection as if for any reference to the registered patron there were substituted a reference to the bishop.
- (3) Where under subsection (1) above the bishop makes to a priest an offer to collate him to a benefice in respect of which there is more than one person registered under this Measure, the registered patron whose turn it was to present to the benefice shall be treated for the purposes of this Measure as having exercised that turn.

## **15 Failure of council to comply with s. 11 or 12.**

If a copy of the statement prepared under section 11(1)(a) of this Measure is not sent under subsection (8) of that section to the persons mentioned in that subsection or if notice is not given under section 12(5) of this Measure of any joint meeting requested under subsection (1)(a) of the said section 12 then—

- (a) if the bishop is the registered patron, he may, without making any request for the approval of the parish representatives, make to such priest as he thinks fit an offer to collate him to the benefice; and
- (b) if the bishop is not the registered patron, that patron shall be entitled to proceed under section 13 of this Measure as if paragraphs (a) and (b)(i) of subsection (1), subsection (3) and paragraph (b) of subsection (4) thereof had not been enacted.

*Provisions which apply where benefice remains vacant for nine months*

## **16 Presentation to benefices remaining vacant for nine months.**

- (1) If at the expiration of the period of nine months beginning with the date on which a benefice becomes vacant—
- (a) no notice of presentation under section 13(6) of this Measure has been received by the bishop, or
- (b) where the bishop is the registered patron, he has not received an acceptance of any offer made by him to collate a priest to the benefice,
- the right of presentation to that benefice shall be exercisable by the archbishop in accordance with the provision of this section; and a notice to that effect shall be sent by the bishop to the archbishop.
- (2) In calculating the period of nine months mentioned in subsection (1) above, no account shall be taken of any of the following periods, that is to say—
- (a) a period during which the decision of the bishop to refuse to approve the making to a priest of an offer to present him to a benefice is under review by an archbishop,
- (b) a suspension period within the meaning of the <sup>M3</sup>Pastoral Measure 1983, [F16 or any period during which the benefice is vacant immediately before the declaration of a suspension period or between suspension periods,] and

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- (c) a period during which the exercise of rights of presentation is restricted under section 24 or 69 of that Measure.
- (3) As soon as practicable after a right of presentation becomes exercisable by an archbishop under this section, the archbishop shall send to the secretary of the parochial church council of the parish concerned a notice requiring him within three weeks after receiving the notice to send to the archbishop copies of the statement describing the conditions, needs and traditions of the parish prepared in accordance with section 11 of this Measure together with copies of any additional observations which the council wishes the archbishop to consider.
- (4) The bishop may, and if the archbishop so requests shall, send to the archbishop a statement describing in relation to the benefice the needs of the diocese and the wider interests of the Church.
- (5) Before the archbishop decides on the priest to whom an offer to present him to the benefice is to be made he shall consult the bishop, the parish representatives and such other persons as he thinks fit, including other persons who in his opinion can also represent the views of the parishioners and, if during the period of nine months mentioned in subsection (1) above the approval of the bishop or the parish representatives to the making of an offer to a priest by the registered patron of the vacant benefice has been refused under section 13 of this Measure, the archbishop shall not make any offer to that priest under this section unless the consent of the bishop or, as the case may be, the parish representatives has been obtained.
- (6) Where a priest accepts an offer to present him to a benefice made in accordance with the provisions of this section, the archbishop shall send to the bishop a notice presenting the priest to him for admission to the benefice.

#### Textual Amendments

**F16** Words in s. 16(2)(b) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), ss. **63(3)**, 66(2); [2007 No. 3](#), Instrument made by Archbishops

#### Marginal Citations

**M3** [1983 No. 1](#).

### *Institution and collation*

## **17 Provisions to have effect where bishop refuses to institute presentee.**

- (1) Nothing in the preceding provisions of this Measure shall be taken as affecting the power of a bishop under section 2(1)(b) of the Benefices Act 1898 or section 1 of the <sup>M4</sup>Benefices Measure <sup>M5</sup>1972 or any rule of law to refuse to institute or admit a presentee to the benefice.
- (2) Where in exercise of any such power a bishop refuses to institute or admit a presentee to a benefice, and either no legal proceedings in respect of the refusal are brought or the refusal of the bishop is upheld in such proceedings, the presentation to the benefice affected shall be made by the registered patron whose turn it was to present when the vacancy first occurred; and for the purposes of sections 7, 9, 11 and 12 of this Measure a new vacancy shall not be treated as having occurred by virtue of this section.

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#### Marginal Citations

M4 1972 No. 3.

M5 1972 No. 3.

### 18 Amendment of Benefices Act 1898.

(1) Section 3 of the Benefices Act 1898 (appeal against refusal to institute) shall have effect subject to the following amendments—

(a) in subsection (1) for the words from “require that the matter” to the end of the subsection there shall be substituted the words “appeal to the archbishop and the Dean of the Arches and Auditor who shall decide whether to uphold the bishop’s refusal or direct him to institute or admit the presentee”.

(b) for subsections (2) and (3) there shall be substituted the following subsection—

“(2) Any proceedings on an appeal under this section shall be held in public and any party to such proceedings shall be entitled to appear by counsel or a solicitor.”

(c) in subsection (4) for the words “judgment of the court” there shall be substituted the words “decision of the archbishop and Dean”;

(d) for subsection (6) there shall be substituted the following subsections—

“(6) The Dean of the Arches and Auditor may nominate a chancellor to hear, in his place, an appeal under this section with the archbishop, and where any such nomination is made any reference in subsection (1) or (4) above to the Dean shall be construed accordingly.

(7) In this section “the archbishop” means the archbishop of the province in which the benefice is or, where the benefice is in the diocese of the archbishop of that province or the archbishopric of that province is vacant or the archbishop is patron of that benefice, the archbishop of the other province.”

(2) For section 11 of that Act (rules) there shall be substituted the following section—

#### “11 Rules.

The Patronage (Appeals) Committee constituted under Schedule 1 to the Patronage (Benefices) Measure 1986 shall have power to make rules—

- (a) prescribing anything to be prescribed under this Act,
- (b) regulating the procedure and practice on or in connection with proceedings on an appeal under section 3 of this Act including, without prejudice to the generality of the preceding provision, rules regulating matters relating to costs, fees and expenses in respect of any such proceedings.”

### 19 Notice of intention of bishop to institute or collate person to benefice.

(1) Subject to subsection (3) below, a bishop shall not on a vacancy in a benefice institute or collate any person to the benefice unless after the occurrence of the vacancy a notice

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in the prescribed form, signed by or on behalf of the bishop, is served on the secretary of the parochial church council of the parish concerned informing him of the bishop's intention to institute or collate that person to the benefice specified in the notice and a period of three weeks has expired since the date of the service of the notice.

- (2) As soon as practicable after receiving a notice under subsection (1) above the secretary shall cause the notice or a copy thereof to be fixed on or near the principal door of every church in the parish and every building licensed for public worship in the parish and to remain affixed thereon for two weeks.
- (3) Subsection (1) above shall not apply in relation to a person designated by or selected under a pastoral scheme or order as the incumbent of any benefice.

*Provisions relating to benefice of which an incumbent is patron*

## **20 Bishop to act in place of incumbent patron in certain cases.**

Where a benefice (“the ancillary benefice”) becomes vacant and it is the turn of the incumbent of another benefice (“the principal benefice”), being the registered patron of the ancillary benefice, to present to that benefice, then if, when the ancillary benefice becomes vacant or at any time during the vacancy thereof and before a notice of presentation under section 13(6) of this Measure is sent to the bishop by the incumbent of the principal benefice—

- (a) the principal benefice is or becomes vacant, or
- (b) the principal benefice is under sequestration, or
- (c) the incumbent of the principal benefice is suspended or inhibited from discharging all or any of the duties attached to his preferment,

the bishop shall discharge in his place the functions of a registered patron.

*Exercise of patronage by personal representatives*

## **21 Exercise of patronage by personal representatives.**

Where a benefice becomes vacant and either—

- (a) the registered patron who would have been entitled to present upon the vacancy is dead and the person to whom the right of patronage is to be transferred has not before the vacancy occurs been registered as a patron of that benefice, or
- (b) the registered patron dies during the vacancy,

then, notwithstanding anything in section 3(8) of this Measure the right of presentation to that benefice upon that vacancy shall be exercisable by that patron's personal representatives; but, before they exercise that right, they shall comply with the requirements of sections 8 and 9 of this Measure as if they were the registered patron.

*Exchange of benefices*

## **22 Exchange of benefices.**

- (1) Two incumbents may by instrument in writing agree to exchange their benefices if the agreement of the following persons has been obtained—

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- (a) the bishop of the diocese in which each benefice is,
  - (b) any registered patron whose turn it is to present to either of the benefices, and
  - (c) the parochial church council of the parish of each benefice, the agreement having in each case been given by resolution of the council.
- (2) Where a registered patron whose turn it is to present to a benefice has given his agreement under subsection (1) above to an exchange by the incumbent of that benefice, he shall be treated for the purposes of this Measure as having exercised that turn.

*Special provisions as to certain benefices*

**23 Special provisions applicable to certain benefices.**

The provisions of this Part of this Measure shall in their application to—

- (a) a benefice which comprises two or more parishes,
- (b) a benefice of which the parochial church council of the parish belonging to the benefice is the registered patron, and
- (c) benefices held in plurality,

have effect subject to the provisions of Schedule 2 to this Measure.

*Interpretation of Part II*

**24 Interpretation of Part II.**

- (1) Subject to subsections (2) and (3) below, in this Part of this Measure, except in sections 7(4) and 10, any reference to a registered patron, in relation to any vacancy in a benefice in respect of which there is more than one patron registered under this Measure, shall be construed as a reference to the registered patron whose turn it is, according to the information in the register of patrons on the date on which the vacancy occurs, to present on that vacancy.
- (2) In a case where the functions of the registered patron of a benefice in relation to a vacancy in the benefice are to be discharged by the holder of an office or the donee of a power of attorney, any reference in this Part of this Measure (except in sections 8, 9(1) to (4) and 21) to the registered patron shall (subject to subsection (3) below) be construed as a reference to that office-holder or donee as the case may be.
- (3) In sections 11 and 12 of this Measure any reference to the registered patron of a benefice (except the reference in section 11(2)(b)) shall in a case where the functions of the patron in relation to a vacancy in the benefice are to be discharged by a representative be construed as a reference to that representative, and in section 13 of this Measure any reference to the registered patron of a benefice shall, in a case where the registered patron, being an individual, has appointed a body mentioned in section 8(7) of this Measure or another individual to discharge those functions, be construed as a reference to that body or that other individual, as the case may be.
- (4) In this Part of this Measure, except in section 8, “representative”, in relation to a registered patron, means—
- (a) in the case of a registered patron who is an individual, the individual appointed under section 8(1)(b), (3) or (6);



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- (b) in the case of a registered patron which is a body of persons, the individual appointed under section 8(2);
  - (c) in the case of a registered patron which is an office, the individual appointed under section 8(4) or (6);
  - (d) in a case where the functions of a registered patron are to be discharged by the donee of a power of attorney, the individual appointed under section 8(5) or (6).
- (5) In this Part of this Measure “parish representative” has the meaning assigned to it by section 11(7) of this Measure.

### PART III

#### MISCELLANEOUS PROVISIONS AS TO PATRONAGE

##### *Appointment of patron of benefice which has no registered patron*

#### **25 Appointment of patron of benefice which has no registered patron.**

Where at the expiration of the registration period or at any subsequent time no person is registered as the patron of a benefice, then unless in relation to that benefice—

- (a) a notice under paragraph 7 of Schedule 1 to this Measure has been served on any person by the registrar of the diocese in which the benefice is and either the period mentioned in paragraph 8 of that Schedule has not expired or an appeal under paragraph 9 thereof has not been determined; or
- (b) the right of presentation to the benefice is exercisable by the personal representatives of a deceased patron,

the Diocesan Board of Patronage for the diocese shall become the patron of that benefice, and the registrar of the diocese shall register that Board as patron accordingly.

##### *Diocesan Boards of Patronage*

#### **26 Diocesan Board of Patronage.**

- (1) There shall continue to be a body corporate in every diocese called the Diocesan Board of Patronage.
- (2) The constitution and rules of procedure of Diocesan Boards of Patronage shall be those set out in Schedule 3 to this Measure.

#### **27 Powers of Diocesan Boards of Patronage.**

- (1) Subject to subsection (2) below, a Diocesan Board of Patronage shall have power to acquire, hold and transfer any right of patronage and to exercise any right of presentation or other right incident to a right of patronage held by the Board.
- (2) Subject to subsection (3) below, a Diocesan Board of Patronage shall not transfer any right of patronage held by it to any other person without the consent of the

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parochial church council of the parish or each of the parishes belonging to the benefice concerned unless the transfer is authorised by or under any enactment.

- (3) If a parish is transferred from a benefice in one diocese to a benefice in another diocese, the Diocesan Board of Patronage for the first-mentioned diocese may transfer its right of patronage to the Diocesan Board of Patronage of that other diocese without the consent of the parochial church council of that parish.
- (4) Where the transfer of a right of patronage requires the consent of a parochial church council under this section, any transfer of the right effected without that consent shall be void.

## 28 Presentation by Diocesan Board of Patronage in case of void benefice.

Where a benefice becomes void under section 4 of the <sup>M6</sup>Simony Act 1588 (simoniacal presentation etc. to a benefice declared void and the presentation to be made by the Crown for that turn) the presentation to that benefice upon that vacancy shall be made by the Diocesan Board of Patronage.

### Marginal Citations

**M6** 1588 c. 6.

### *Benefices affected by pastoral re-organisation*

## 29 Provisions as to patronage affected by pastoral schemes.

- (1) In section 32 of the <sup>M7</sup>Pastoral Measure 1983 (provisions as to patronage) in subsection (1) for the word “patron” there shall be substituted the words “registered patron” and for subsection (3) there shall be substituted the following subsections—
  - “(3) Without prejudice to the generality of subsections (1) and (2) above, a pastoral scheme (whether it relates only to an existing benefice or provides for the creation of a new benefice) may with the consent of the registered patron or patrons of any benefice affected by the scheme provide for the transfer of existing rights of patronage to, or for the vesting of new rights of patronage in, a special patronage board constituted by the scheme.
  - (3A) A special patronage board constituted by a pastoral scheme by virtue of subsection (3) shall consist of such members as the scheme may provide, and the scheme may designate the member who is to be chairman of the board; and the following provisions of paragraph 1 of Schedule 3 shall apply to such patronage board as they apply to a patronage board constituted by a pastoral scheme establishing a team ministry, that is to say—
    - (a) sub-paragraph (6) so far as it relates to any member of a board;
    - (b) sub-paragraph (7) so far as it relates to the entitlement to votes of any member of a board;
    - (c) sub-paragraph (8), and
    - (d) sub-paragraph (10) so far as it relates to the transfer of the rights to be members of a board.”

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- (2) Where any right of patronage of a benefice is transferred to or becomes vested in any person by virtue of a pastoral scheme the registrar of the diocese in which that benefice is shall, on receiving a copy of the Order in Council confirming the scheme, register him as the patron of that benefice.
- (3) Subject to any provision for the designation or selection of the first incumbent of a new benefice created by a pastoral scheme, sections 7 to 16 of this Measure shall apply to the making of the first presentation to the benefice as if the coming into operation of the scheme were the occurrence of a vacancy in the benefice.

#### Marginal Citations

M7 1983 No. 1.

*Other amendments of the law relating to rights of patronage etc.*

### 30 Removal of certain disabilities.

- (1) The following enactments (which impose disabilities on patrons practising the Roman Catholic religion etc.) that is to say—
  - (a) section 13 of the Presentation of Benefices Act 1605;
  - (b) section 2 of the Presentation of Benefices Act 1688; and
  - (c) section 1 of the Presentation of Benefices Act 1713,shall cease to have effect.
- (2) Section 15 of the <sup>M8</sup>Roman Catholic Relief Act 1829 (Roman Catholic member of lay body corporate not to vote in election, presentation or appointment of persons to ecclesiastical benefice, etc., in the gift, patronage or disposal of that body) shall cease to have effect in so far as it relates to benefices.
- (3) Section 17 of the Roman Catholic Relief Act 1829 (right of presentation to benefice to devolve upon the Archbishop of Canterbury for the time being where right belongs to office which is held by person professing the Roman Catholic religion) and, in section 4 of the <sup>M9</sup>Jews Relief Act 1858, the words from the beginning to “being; and” (similar provision relating to right of presentation belonging to office held by person professing the Jewish religion) shall cease to have effect.

#### Marginal Citations

M8 1829 c. 7.

M9 1858 c. 49.

### 31 Abrogation of rules as to lapse.

- (1) Without prejudice to the provisions of section 16 of this Measure, any rule of law whereby the right of patronage of a benefice lapses to a bishop or archbishop or to Her Majesty in right of Her Crown shall cease to have effect.
- (2) Nothing in this section shall affect any right of presentation which on a vacancy in a benefice is exercisable by Her Majesty—

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- (a) by reason of the appointment to a diocesan bishopric of the incumbent of the benefice concerned, or
- (b) by reason of a vacancy in the see of a diocesan bishop who is a registered patron of the benefice concerned.

### **32 Advowsons appendant to become advowsons in gross.**

- (1) Every advowson which immediately before the date on which this section comes into force is appendant to any land or any manor shall by virtue of this section be severed from that land or manor and become an advowson in gross which—
  - (a) in the case of land belonging at that date to a charity, shall belong to that charity;
  - (b) in any other case, shall belong in his personal capacity to the person who at that date is the owner in fee simple of that land or the lord of that manor, as the case may be.
- (2) Every advowson which immediately before the said date is appendant to any rectory, not being a rectory with cure of souls, shall by virtue of this section be severed from that rectory and become an advowson in gross belonging in his personal capacity to the person who at that date is the rector of that rectory.
- (3) Nothing in this section shall affect the trusts, if any, on which any advowson is held.

### **33 Transfer of advowson held on trust for sale or comprised in settled land.**

- (1) Where any advowson is [<sup>F17</sup>subject to a trust of land], it shall be lawful for the trustees to transfer the advowson gratuitously to any person who has agreed to accept it and—
  - (a) being an individual—
    - (i) is an ecclesiastical corporation sole, or
    - (ii) is an actual communicant member of the Church of England, or
  - (b) being a body of persons, corporate or unincorporate,—
    - (i) is one of the bodies mentioned in section 8(7) of this Measure, or
    - (ii) has the furtherance of the work of the Church of England as one of its objects.
- (2) Where the consent of any person is by any instrument containing such a trust, or by any statutory provision, made requisite to the execution of the trust, then, subject to [<sup>F18</sup>section 10 of the Trusts of Land and Appointment of Trustees Act 1996 (consents)], the trustees shall obtain the consent of that person to the execution of a transfer made lawful by subsection (1) above.
- (3) The tenant for life of settled land may make a grant in fee simple of any advowson comprised in the settled land gratuitously to any such person as is referred to in subsection (1) above.
- (4) Subsection (3) above shall be construed as one with the <sup>M10</sup>Settled Land Act 1925, and that Act shall apply as if the power conferred by subsection (3) had been conferred by that Act.
- (5) Nothing in any local Act or trust deed shall prevent the transfer inter vivos by trustees of an advowson which is the subject of a trust.

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#### Textual Amendments

- F17** Words in s. 33(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 24(a)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**
- F18** Words in s. 33(2) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 24(b)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

#### Marginal Citations

- M10** 1925 c. 18.

### 34 Abolition of certain rights etc. of patronage.

- (1) The right of pre-emption of the patron of a benefice under section 4 of the <sup>M11</sup>Parsonages Measure 1938 over any property belonging to the benefice in respect of which it is proposed to exercise a power of sale conferred by that Measure is hereby abolished.
- (2) The requirement to obtain the consent of the patron of a benefice to the exercise of the power conferred by—
  - (a) section 2A of the Parsonages Measure 1938 (power of bishop during vacancy in benefice to divide, enlarge or improve parsonage house); or
  - (b) section 9(1) of the <sup>M12</sup>Church Property (Miscellaneous Provisions) Measure 1960 (power of incumbent or bishop to take or grant easements over land belonging to benefice), or
  - (c) section 11(1) of that Measure (power of incumbent to dedicate certain land belonging to benefice for purpose of a highway),is hereby abolished.
- (3) The requirement to obtain the consent of the patron of a church to the exercise of the power conferred by section 20(1) of the <sup>M13</sup>Marriage Act 1949 (power of bishop to licence chapel for publication of banns and solemnisation of marriages) is hereby abolished.
- (4) The obligation imposed by section 4 of the <sup>M14</sup>Army Chaplains Act 1868 to transmit to the patron or patrons of a church or chapel affected a copy of the draft of a scheme for constituting a precinct or district an extra parochial district for the purpose of that Act in order that he or they may have an opportunity of making observations or objections is hereby abolished.
- (5) The Parsonages Board within the meaning of the <sup>M15</sup>Repair of Benefice Buildings Measure 1972 shall consult the registered patron, if any, of the benefice affected before—
  - (a) determining on the alterations (if any) with which damage to the parsonage house is to be made good under section 12(3) of that Measure, or
  - (b) determining that the whole or part of the damage be not made good,but shall not, in either case, be prohibited from making its determination without the consent of that patron.

<sup>F19</sup>(6) .....

*Status: Point in time view as at 11/06/2008.*

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#### **Textual Amendments**

**F19** S. 34(6) repealed (1.1.2001) by 2000 Measure No. 1, s. 20, **Sch. 8 Pt. II**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

#### **Marginal Citations**

**M11** 1938 No. 3.

**M12** 1960 No. 1.

**M13** 1949 c. 83.

**M14** 1868 c. 83.

**M15** 1972 No. 2.

## **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”).
- (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.

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- (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, in the case of a shared benefice, 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 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>F20</sup>(including the terms of any resolution under section 3(1) of the Priests (Ordination of Women) Measure 1993 affecting the benefice in question)], 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.
- (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 paragraphs (a) to (d) of section 81(2) of the <sup>M16</sup>Pastoral Measure 1983 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

**F20** 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

#### Marginal Citations

**M16** 1983 No. 1.

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

Without prejudice to the provisions of the <sup>M17</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.

**Marginal Citations**

**M17** 1974 c. 25.

*Supplementary provisions*

**37 Provisions as to notices and other documents.**

- (1) All notices, agreements, approvals, consents and requests required or authorised by this Measure to be served, sent, given or made shall be in writing, and all such notices, other than notices under paragraphs 7 and 8 of Schedule 1 to this Measure shall be in the prescribed form.
- (2) Any notice or other document required or authorised by this Measure to be served on or sent or given to any person may be served, sent or given by delivering it to him, or by leaving it at his proper address, or by post.
- (3) Any notice or other document required or authorised to be served, sent or given to a corporation or to an unincorporated body having a secretary or clerk or to a firm, shall be duly served, sent or given if it is served on or sent or given to, as the case may be, the secretary or clerk of the corporation or body or a partner of the firm.
- (4) Subject to subsection (5) below, for the purposes of this section and of section 7 of the <sup>M18</sup> Interpretation Act 1978 in its application to this section, the proper address of the person on or to whom any such notice or other document is required or authorised to be served, sent or given shall be his last known address, except that in the case of the secretary or clerk of a corporation, it shall be that of the registered or principal office of the corporation, and in the case of the secretary or clerk of an unincorporated body or a partner of a firm, it shall be that of the principal office of the body or firm.
- (5) If the person on or to whom any such notice or other document is to be served, sent or given has specified an address within the United Kingdom for the serving, sending or giving of the notice or other document, his proper address for the said purposes shall be that address.

**Marginal Citations**

**M18** 1978 c. 30.

**38 Patronage (Procedure) Committee.**

- (1) There shall be a committee, to be known as the Patronage (Procedure) Committee, which shall consist of a chairman and four other members appointed by the Standing Committee.
- (2) The Patronage (Procedure) Committee shall have power to make rules with regard to any matter of procedure arising under this Measure and in particular with regard to any matter to be prescribed thereunder, except that no rules may be made under this



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subsection with regard to any matter in respect of which rules may be made by the Patronage (Appeals) Committee under paragraph 11 of Schedule 1 to this Measure.

- (3) Any three members of the Patronage (Procedure) Committee may exercise all the powers of the Committee.
- (4) Any rules made by the Patronage (Procedure) Committee shall be laid before the General Synod and shall not come into force until approved by the General Synod, whether with or without amendment.
- (5) Where the Standing Committee determines that the rules do not need to be debated by the General Synod, then, unless—
  - (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the rules to be debated, or
  - (b) notice is so given by any such member that he wishes to move an amendment to the rules<sup>F21</sup> . . . ,the rules shall for the purposes of subsection (4) above be deemed to have been approved by the General Synod without amendment.
- (6) The<sup>M19</sup> Statutory Instruments Act 1946 shall apply to rules approved by the General Synod under this section as if they were statutory instruments 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

**F21** Words in s. 38(5)(b) repealed (1.9.1995) by 1995 No. 2, s. 14; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York

#### Modifications etc. (not altering text)

**C2** S. 38(1)(5): functions transferred (1.1.1999) by S.I. 1998/1715, arts. 1(2)(4), 2, **Sch. 1**; 1998 No. 1, s. 5; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York

#### Marginal Citations

**M19** 1946 c. 36.

## 39 Interpretation.

- (1) In this Measure, unless the context otherwise requires—

“actual communicant member of the Church of England” means a member of the Church of England who is confirmed or ready and desirous of being confirmed and has received Communion according to the use of the Church of England or of a Church in communion with the Church of England at least three times during the twelve months preceding the date on which he makes the declaration of membership;

“actual communicant member of a Church in communion with the Church of England” means a communicant member of a Church in communion with the Church of England who has received Communion according to the use of the Church of England or of a Church in communion with the Church of England at least three times during the twelve months preceding the date on which he makes the declaration of membership;

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“archbishop” means the archbishop of the province in which the benefice is or, where the benefice is in the diocese of the archbishop of that province or the archbishopric of that province is vacant or the archbishop is the patron of that benefice, the archbishop of the other province;

“benefice” means the office of rector or vicar of a parish or parishes, with cure of souls, but not including the office of vicar in a team ministry or any office in a cathedral church;

“the bishop” means the bishop of the diocese concerned;

“clerk in Holy Orders” means a priest or deacon of the Church of England and “priest” includes a bishop;

“the declaration of membership” has the meaning assigned to it by section 8(1);

“the designated officer” has the meaning assigned to it by section 7(5);

“parish” means a parish constituted for ecclesiastical purposes and does not include a conventional district;

“pastoral committee”, “pastoral order” and “pastoral scheme” have the same meanings respectively as in the <sup>M20</sup>Pastoral Measure 1983;

“patron”, in relation to any benefice, means the person or persons entitled, otherwise than by virtue of section 16, to present to that benefice upon a vacancy, including—

- (a) in any case where the right to present is vested in different persons jointly, every person whose concurrence would be required for the exercise of the joint right, and
- (b) in any case where the patronage is vested in different persons by way of alternate or successive right of presentation, every person who would be entitled to present on the next or any subsequent turn;

“register of patrons” means a register compiled and maintained under section 1;

“registered” means registered under this Measure in a register of patrons;

“registered person”, in relation to a benefice, means any person who or office which is for the time being registered as a patron of that benefice;

“registration period” has the meaning assigned to it by section 1(2);

“the Standing Committee” means the Standing Committee of the General Synod.

(2) Where a pastoral scheme or pastoral order provides for the holding of benefices in plurality any reference in this Measure to a benefice shall be construed as including a reference to benefices held in plurality.

(3) If any question arises whether a Church is a Church in communion with the Church of England, it shall be conclusively determined for the purposes of this Measure by the Archbishops of Canterbury and York.

#### **Marginal Citations**

**M20** 1983 No. 1.

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#### **40 Temporary provision with respect to filling of certain vacancies.**

Where a benefice is vacant at the date on which section 1 of this Measure comes into force, or becomes vacant after that date and before the end of the registration period, the vacancy shall be filled in accordance with the law in force immediately before that date, except that if a suspension period has been declared in respect of the benefice under section 67 of the <sup>M21</sup>Pastoral Measure 1983 or any restriction has been imposed by section 69 of that Measure in respect of the benefice and the suspension period does not come to an end, or the restriction does not cease to be in force, until after the end of the registration period, the vacancy shall be filled in accordance with the provisions of this Measure.

##### **Marginal Citations**

**M21** 1983 No. 1.

#### **41 Amendments and repeals.**

- (1) The enactments specified in Schedule 4 to this Measure shall have effect subject to the amendments specified in that Schedule, being minor amendments or amendments consequential on the provisions of this Measure.
- (2) Subject to section 40 of this Measure, the enactments specified in Schedule 5 to this Measure (which include enactments which were obsolete, spent or unnecessary before the passing of this Measure) and the instrument there specified are hereby repealed to the extent specified in column 3 of that Schedule.

#### **42 Short title, extent and commencement.**

- (1) This Measure may be cited as the Patronage (Benefices) Measure 1986.
- (2) This Measure shall extend to the whole of the provinces of Canterbury and York, except the Channel Islands and the Isle of Man, but may be applied to the Channel Islands, as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either of them, in accordance with those Measures, and may be extended to the Isle of Man by or under Act of Tynwald.
- (3) This Measure shall come into operation on such date as the Archbishops of Canterbury and York may jointly appoint; and different dates may be appointed for different provisions.

##### **Modifications etc. (not altering text)**

**C3** **S. 42(3):** Power of appointment conferred by s. 42(3) fully exercised: 1.1.1987 appointed for ss. 26, 27, 38, 39, 42, Sch. 3 and the repeal by Schedule 5 of the [Benefices \(Diocesan Boards of Patronage\) Measure 1932 \(No. 1\)](#), 1.10.1987 appointed for ss. 1, 2, 6, 35(1), (2), (3), 36, 37, 40 and Sch. 1 and 1.1.1989 appointed for the remainder of the Measure, by Instrument dated 31.12.1986

**Status:**

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**Changes to legislation:**

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