



# Patronage (Benefices) Measure 1986

1986 No. 3

## 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>M1</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.
- (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.

*Status: Point in time view as at 01/03/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Patronage (Benefices) Measure 1986, Part II. (See end of Document for details)*

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

- C1** S. 7 restricted (1.7.2012) by [Mission and Pastoral Measure 2011 \(No. 3\)](#), **ss. 88(a)**, 112(3) (with [ss. 100](#), [105\(4\)](#), [107](#), [108\(6\)](#), [Sch. 8](#)); [2012 No. 1](#), art. 2
- C2** 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**

- M1** [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 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)—

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- (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>F1</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>F2</sup>or three weeks, as the case may be,] a registered patron which is a body of persons corporate or unincorporate 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

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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>F3</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

- F1** 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.
- F2** 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.
- F3** 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 [<sup>F4</sup>spouse or civil partner] of such a clerk, that clerk shall be disqualified for presentation to that benefice.

#### Textual Amendments

- F4** Words in s. 10 substituted (1.1.2015) by Church of England (Miscellaneous Provisions) Measure 2014 (No. 1), s. 21(2), **Sch. 2 para. 9(2)**; S.I. 2014/2077, art. 2(2)

## 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;

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- (d) deciding whether to request a meeting under section 12 of this Measure; <sup>F5</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>F6</sup>[<sup>F7</sup> ...].
  - <sup>F8</sup>[(f) <sup>F9</sup> .....
- (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>F10</sup>spouse][<sup>F11</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 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

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church council to the registered patron and, unless the bishop is the registered patron, to the bishop.

#### Textual Amendments

- F5** 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
- F6** Word in s. 11(1)(e) repealed (17.11.2014) by Bishops and Priests (Consecration and Ordination of Women) Measure 2014 (No. 2), s. 4(2), **Sch.**; 2014 No. 5, art. 2
- F7** 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
- F8** 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
- F9** S. 11(1)(f) repealed (17.11.2014) by Bishops and Priests (Consecration and Ordination of Women) Measure 2014 (No. 2), s. 4(2), **Sch.**; 2014 No. 5, art. 2
- F10** 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
- F11** 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.
- (4) The outgoing incumbent and the [<sup>F12</sup>spouse][<sup>F13</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

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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

- F12** 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
- F13** 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
    - (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.

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- (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. [F14F15 ...
- F15(a) .....
- F15(b)] .....
- (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

- F14** 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
- F15** Words in s. 13(5) repealed (17.11.2014) by Bishops and Priests (Consecration and Ordination of Women) Measure 2014 (No. 2), s. 4(2), **Sch.**; 2014 No. 5, art. 2

## 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
  - (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



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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.

[<sup>F16</sup>(1) This section applies where a benefice becomes vacant and, at the end of the period of twelve months beginning with the day on which the vacancy arose or (if later) the day on which the bishop gave the notice under section 7, the bishop has not received—

- (a) a notice of presentation under section 13(6), or
- (b) if the bishop is the registered patron, an acceptance of any offer made by the bishop to collate a priest to the benefice.

(1A) The right of presentation to the benefice shall be exercisable by the bishop in accordance with this section.]

(2) In calculating the period of [<sup>F17</sup>twelve 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>M2</sup>Pastoral Measure 1983, [<sup>F18</sup>or any period during which the benefice is vacant immediately before the declaration of a suspension period or between suspension periods,] and
- (c) a period during which the exercise of rights of presentation is restricted under section 24 or 69 of that Measure.

<sup>F19</sup>(3) .....

<sup>F19</sup>(4) .....

(5) [<sup>F20</sup>Before deciding on the priest to whom an offer to be collated to the benefice is to be made, the bishop shall consult] , the parish representatives and such other persons

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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 [<sup>F21</sup>twelve months] mentioned in subsection (1) above the approval of [<sup>F22</sup>... 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, [<sup>F23</sup>the bishop shall not make any offer to that priest under this section unless the consent of] the parish representatives has been obtained.

[<sup>F24</sup>(5A) Before the bishop has decided on the priest to whom an offer to be collated to the benefice is to be made, the parochial church council may resolve that the archbishop should instead make the decision; and where the parochial church council so resolves, the secretary to the council shall send a copy of the resolution to the archbishop.

(5B) Having received a copy of a resolution made under subsection (5A), the archbishop shall proceed to decide to whom an offer to be collated to the benefice is to be made; and once a priest accepts such an offer made by the archbishop, the archbishop shall send the bishop a notice presenting the priest to the bishop for admission to the benefice.]

<sup>F25</sup>(6) .....

#### Textual Amendments

- F16** S. 16(1)(1A) substituted for s. 16(1) (1.7.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 12(1)**, 14(3) (with s. 12(7)); S.I. 2018/722, art. 2(e)
- F17** Words in s. 16(2) substituted (1.7.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 12(2)**, 14(3) (with s. 12(7)); S.I. 2018/722, art. 2(e)
- F18** 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
- F19** S. 16(3)(4) omitted (1.7.2018) by virtue of [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 12(3)**, 14(3) (with s. 12(7)); S.I. 2018/722, art. 2(e)
- F20** Words in s. 16(5) substituted (1.7.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 12(4)(a)**, 14(3) (with s. 12(7)); S.I. 2018/722, art. 2(e)
- F21** Words in s. 16(5) substituted (1.7.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 12(4)(b)**, 14(3) (with s. 12(7)); S.I. 2018/722, art. 2(e)
- F22** Words in s. 16(5) omitted (1.7.2018) by virtue of [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 12(4)(c)**, 14(3) (with s. 12(7)); S.I. 2018/722, art. 2(e)
- F23** Words in s. 16(5) substituted (1.7.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 12(4)(d)**, 14(3) (with s. 12(7)); S.I. 2018/722, art. 2(e)
- F24** S. 16(5A)(5B) inserted (1.7.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 12(5)**, 14(3) (with s. 12(7)); S.I. 2018/722, art. 2(e)
- F25** S. 16(6) omitted (1.7.2018) by virtue of [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 12(6)**, 14(3) (with s. 12(7)); S.I. 2018/722, art. 2(e)

#### Marginal Citations

**M2** 1983 No. 1.

#### [<sup>F26</sup>16A Special procedure for appointment of priest in charge as incumbent

- (1) This section applies where a benefice is vacant and—
- (a) the bishop is aware that a suspension period in respect of the benefice is shortly to come to an end, or has come to an end, or a restriction on presentation to the benefice is shortly to cease to be in force, or has ceased to be in force, and

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- (b) the bishop proposes that a priest in charge who holds office in respect of the benefice should be admitted to the benefice.
- (2) Where subsection (1) above applies, the bishop may give notice of his proposal to—
- (a) the registered patron, unless the bishop is the registered patron;
  - (b) the priest in charge; and
  - (c) the parochial church council of each parish belonging to the benefice.
- (3) Upon receiving the notice referred to in subsection (2)(a) above and after the suspension period has come to an end or the restriction has ceased to be in force, the registered patron may, if content with the proposal, send a notice to the bishop presenting the priest in charge to him for admission to the benefice, if the following conditions are satisfied—
- (a) the priest in charge has stated in writing that he is willing to be admitted to the benefice, and
  - (b) the parochial church council of each parish belonging to the benefice has passed a resolution stating that it approves the proposal that the priest in charge should be admitted.
- (4) No member of a parochial church council who is the priest in charge or the spouse or civil partner of the priest in charge or the registered patron or the representative of the registered patron shall attend a meeting at which the resolution mentioned in subsection (3)(b) is proposed to be considered.
- (5) Unless section 2 of the 2010 Measure applies, where the bishop is the registered patron, and the conditions set out in subsection (3)(a) and (b) are satisfied, he may, after complying with the requirements of section 19, collate the priest in charge to the benefice.
- (6) Where section 2 of the 2010 Measure applies and the bishop is the relevant bishop for the purposes of section 2(2), the bishop shall, if Her Majesty has not given notice under section 2(3), if the conditions set out in subsection (3)(a) and (b) are satisfied, present the priest in charge on behalf of Her Majesty for admission to the benefice.
- (7) Where—
- (a) the registered patron has given notice in accordance with subsection (3) above, or
  - (b) the bishop has complied with the requirements of section 19 under subsection (5) above, or
  - (c) the bishop has presented the priest in charge on behalf of Her Majesty for admission to the benefice under subsection (6) above,
- the provisions of this Measure mentioned in subsection (8) below and section 88(d) of the Mission and Pastoral Measure 2011 shall not apply.
- (8) The provisions referred to in subsection (7) above are sections 7, 11, 12, 13, 14, 15 and 16.
- (9) Where a registered patron (other than the bishop) proposes to send a notice to the bishop in accordance with subsection (3), sections 8 and 9 shall apply as if the notice given by the bishop under subsection (2) were a notice under section 7(4).
- (10) In this section “suspension period” has the meaning assigned to it in section 85(1) of the Mission and Pastoral Measure 2011 and “restriction” means a restriction on the right of presentation to a benefice imposed under section 38 or 87 of that Measure.]

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### Textual Amendments

- F26** S. 16A inserted (1.1.2015) by [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), [ss. 12\(2\), 21\(2\)](#); [S.I. 2014/2077](#), [art. 2\(2\)](#) (with [Sch. para. 4](#))

### *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>M3</sup>Benefices Measure <sup>M4</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.

### Marginal Citations

- M3** [1972 No. 3.](#)  
**M4** [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

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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 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.

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*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—
  - (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

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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 [F27 11, 12 and 16A] 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 [F27 sections 13 and 16A] 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);
  - (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.

#### **Textual Amendments**

**F27** Words in s. 24(3) substituted (1.1.2015) by [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), ss. 12(3), 21(2); S.I. 2014/2077, art. 2(2)

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**Changes to legislation:**

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