



Patronage (Benefices) Measure 1986

1986 No. 3

PART IV

GENERAL AND SUPPLEMENTARY PROVISIONS

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

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

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

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

- (a) section 11(1)(b), (4), (5), (6) and (7);
- (b) section 11(2)(a) and, so far as it relates thereto, section 11(3)(a), and section 11(3)(b);
- (c) section 11(8), so far only as it relates to parish representatives; and
- (d) section 13(1)(b)(i), (3) and, so far only as they relate to parish representatives, (4) and (5).

(1B) Where, by virtue of subsection (1A)(d), section 13(4) and (5) of this Measure apply in relation to the selection of an incumbent to fill a benefice which is vacant during a vacancy in the see of a diocesan bishop and to which Her Majesty has the right of presentation and to which the right of presentation would, but for the vacancy, be

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exercisable by that bishop, any reference in those subsections to the registered patron shall be construed as a reference to Her Majesty.]

- (2) Where it appears to the registrar of a diocese that a benefice is a Crown benefice, the registrar shall, as soon as practicable after the date on which section 1 of this Measure comes into force, notify Her Majesty or the possessor for the time being of the Duchy of Cornwall that he proposes to register Her Majesty or the possessor for the time being of the Duchy of Cornwall, as the case may be, as patron of the benefice specified in the notice.
- (3) Where in the case of a Crown benefice a share only in the patronage is vested in Her Majesty or the possessor for the time being of the Duchy of Cornwall (in this section referred to as a “shared benefice”), sections 1 and 2 of this Measure shall apply for the purpose of enabling any patron other than Her Majesty or the possessor for the time being of the Duchy of Cornwall to be registered as a patron of that benefice and sections 5 and 21 of this Measure shall apply in relation to a registered patron of a shared benefice other than Her Majesty or the possessor for the time being of the Duchy of Cornwall.
- (4) Where a right of patronage in a Crown benefice is transferred to any person other than Her Majesty or the Duke of Cornwall the registrar shall not register the transferee as patron of the benefice unless the application for transfer is made in accordance with Schedule 1 to this Measure before the expiration of the period of twelve months beginning with the date of execution of the transfer.
- (5) Where a right of patronage of a benefice is proposed to be transferred to Her Majesty or to the possessor for the time being of the Duchy of Cornwall, section 3(2) to (7) of this Measure shall not apply but the transferor shall send a notice to the registrar to inform him of the transfer and the registrar shall notify Her Majesty or the possessor for the time being of the Duchy of Cornwall that he proposes to register Her Majesty or, as the case may be, the possessor of the Duchy of Cornwall as patron of that benefice.
- (6) Section 3(1) of this Measure shall apply to the transfer of a right of patronage of a Crown benefice.
- (7) Section 7 of this Measure shall apply in relation to a Crown benefice, and where the designated officer of a diocese receives a notice under that section in respect of a Crown benefice then—
 - (a) if the patronage is vested wholly in Her Majesty or the possessor for the time being of the Duchy of Cornwall or, 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 ^{F2}[^{F3} . . .], 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

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of paragraphs (a) to (d) of section 81(2) of the ^{M1}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

- F1** S. 35(1A)(1B) inserted (1.1.2011) by [Crown Benefices \(Parish Representatives\) Measure 2010 \(No. 3\)](#), [ss. 1\(1\), 2\(2\)](#) (with s. 1(2)); 2010 No. 7, art. 2
- F2** Words in s. 35(7)(a) repealed (17.11.2014) by [Bishops and Priests \(Consecration and Ordination of Women\) Measure 2014 \(No. 2\)](#), s. 4(2), [Sch.](#); 2014 No. 5, art. 2
- F3** 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

- M1** 1983 No. 1.

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

Without prejudice to the provisions of the ^{M2}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 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

- M2** 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 of 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 ^{M3}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

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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

M3 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 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^{F4} . . . ,
- the rules shall for the purposes of subsection (4) above be deemed to have been approved by the General Synod without amendment.
- (6) The ^{M4}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

F4 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

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Modifications etc. (not altering text)

- C1** 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

- M4** 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;

“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 ^{M5}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;

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“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

M5 1983 No. 1.

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 ^{M6}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

M6 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.

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- (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)

- C2** [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

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