



Pluralities Act 1838

1838 CHAPTER 106 1 and 2 Vict

54 Residence may be enforced by monition, or the living sequestered. Appeal against sequestration to the archbishop.

In every case in which it shall appear to the bishop that any spiritual person holding any benefice within his diocese [^{F1}who is not subject to Common Tenure], and not having a licence to reside elsewhere than in the house of residence belonging thereto, nor having any legal cause of exemption from residence, does not sufficiently, according to the true meaning and intent of this Act, reside on such benefice, it shall be lawful for such bishop, instead of proceeding for penalties under this Act, . . . ^{F2} or after proceeding for the same, to issue or cause to be issued a monition to such spiritual person, requiring him forthwith to proceed to and to reside on such benefice, and perform the duties thereof, and to make a return to such monition within a certain number of days after the issuing thereof; provided that in every such case there shall be thirty days between the time of serving such monition on such spiritual person, in the manner, herein-after directed, and the time specified in such monition for the return thereto; and the spiritual person on whom any such monition shall be served shall, within the time specified for that purpose, make a return thereto into the registry of the diocese, to be there filed; and it shall be lawful for the bishop to whom any such return shall be made to require such return or any fact contained therein to be verified by evidence; and in every case where no such return shall be made or where such return shall not state such reasons for the non-residence of such spiritual person as shall be deemed satisfactory by the bishop, or where such return, or any of the facts contained therein, shall not be so verified as aforesaid, when such verification shall have been required, it shall be lawful for the bishop to issue an order in writing under his hand and seal, requiring such spiritual person to proceed and reside as aforesaid within thirty days after such order shall have been served upon him in like manner as is herein-after directed with respect to the service of monitions, and in case of non-compliance with such order it shall be lawful for the bishop to sequester the profits of such benefice until such order shall be complied with, or such sufficient reasons for non-compliance therewith shall be stated and proved as aforesaid, and to direct, by any order to be made for that purpose under his hand and filed as aforesaid, the application of such profits, after deducting the necessary expenses of serving the cure, either in the whole or in such proportions as he shall think fit, in the first place to the payment of the penalties proceeded for, if any and of such reasonable expenses as shall have been

Status: Point in time view as at 31/01/2011. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Pluralities Act 1838, Section 54. (See end of Document for details)

incurred in relation to such monition and sequestration, and in the next place towards the repair or sustentation of the chancel, house of residence of such benefice, or of any of the buildings and appurtenances thereof, and of the glebe and demesne lands, and in the next place, where such benefices shall be likewise under sequestration at the suit of any creditor then towards the satisfaction of such last-mentioned sequestration, and after the satisfaction thereof, then and in the next place towards the augmentation or improvement of any such benefice, or the house of residence thereof, or any of the buildings and appurtenances thereof, or towards the improvement of any of the glebe or demesne lands, thereof, or to order and direct the same or any portion thereof to be paid to the treasurer of the [^{F3}Church Commissioners], for the purposes of the said bounty, as such bishop shall, in his discretion, under all circumstances, think fit and expedient; and it shall also be lawful for the bishop, within six months after such order for sequestration, or within six months after any money shall have been actually levied by such sequestration, to remit to such spiritual person any proportion of such sequestered profits, or to cause the same or any part thereof, whether the same remain in the hands of the sequestrator or shall have been paid to the said treasurer, to be paid to such spiritual person; and every such sequestrator at the suit of the bishop is hereby required, upon receiving an order under the hand of such bishop, forthwith to obey the same; and the said treasurer is hereby authorized and required, upon receiving a like order from such bishop, to make such payment out of any money in his hands: Provided always, that any such spiritual person may, within one month after service upon him of the order for any such sequestration, appeal to the archbishop of the province, who shall make such order relating thereto, or to the profits that shall have been so sequestered as aforesaid, for the return of the same or any part thereof to such spiritual person, or to such sequestrator at the suit of any creditor (as the case may be) or otherwise, as may appear to such archbishop to be just and proper; but nevertheless such sequestration shall be in force during such appeal.

Textual Amendments

- F1** Words in s. 54 inserted (E.) (31.1.2011) by [The Ecclesiastical Offices \(Terms of Service\) \(Consequential and Transitional Provisions\) Order 2010 \(S.I. 2010/2847\)](#), art. 1(3), **Sch. 2 para. 9**
- F2** Words repealed by [Statute Law Revision \(No. 2\) Act 1874 \(c. 96\)](#)
- F3** Words substituted by virtue of [Church Commissioners Measure 1947 \(No. 2\)](#), **s. 8(2)**

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