



# Benefices Act 1898

1898 CHAPTER 48 61 and 62 Vict

## 3 Appeal against refusal to institute.

- (1) Where a bishop, on any ground included in section two of this Act or of unfitness or disqualification of the presentee otherwise sufficient in law, except a ground of doctrine or ritual, refuses to institute or admit a presentee to a benefice, he shall signify the refusal in writing together with the grounds thereof to the person presenting to the benefice and to the presentee in the prescribed manner, and within one month after the signification either of those persons may, in the prescribed manner, [<sup>F1</sup>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]
- [<sup>F2</sup>(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 [<sup>F3</sup>an authorised person].]
- [<sup>F4</sup>(2A) In subsection (2) "authorised person" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise a right of audience (within the meaning of that Act).]
- (4) If, within one month after a [<sup>F5</sup>decision of the archbishop and Dean]in favour of a presentee, the bishop fails to institute or admit him, the official principal of the archbishop shall institute or admit him if there is no other impediment.
- (5) If in any case to which this section applies the bishop signifies his refusal in manner provided by this section, no proceeding in the nature of *quare impedit* or *duplex querela* shall be taken in any other court in respect of the refusal.
- [<sup>F6</sup>(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. ]

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*Changes to legislation: There are currently no known outstanding effects for the Benefices Act 1898, Section 3. (See end of Document for details)*

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#### Textual Amendments

- F1** Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), **ss. 18(1)(a)**, 23
- F2** S. 3(2) substituted for S. 3(2)(3) by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), **ss. 18(1)(b)**, 23
- F3** Words in s. 3(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 14(a)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F4** S. 3(2A) inserted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 14(b)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F5** Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), **ss. 18(1)(c)**, 23
- F6** S. 3(6)(7) substituted for S. 3(6) by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), **ss. 18(1)(d)**, 23

**Changes to legislation:**

There are currently no known outstanding effects for the Benefices Act 1898, Section 3.