



# Mission and Pastoral Measure 2011

2011 No. 3

## PART 8

### MISCELLANEOUS AND GENERAL

#### *General provisions*

#### **104 Pluralities not be authorised except under this Measure**

- (1) Subject to the provisions of this Measure, no person shall hold benefices in plurality except in pursuance of a pastoral scheme or order.
- (2) Subject to the provisions of this Measure, no person shall hold a cathedral preferment with a benefice or with two or more benefices authorised to be held in plurality by a pastoral scheme or order, unless the cathedral statutes so provide or allow.
- (3) No person shall hold cathedral preferment in more than one cathedral.
- (4) If any person accepts any benefice or cathedral preferment and such acceptance would, but for this subsection, result in him or her holding offices in contravention of this section, he or she shall, on his or her admission to the benefice or preferment, be deemed to vacate the office or offices previously held by him or her.

(5) In this section—

“benefice” includes the office of a vicar in a team ministry;

“cathedral preferment” means the office of dean, residentiary canon or stipendiary canon in any cathedral;

“cathedral statutes” includes a charter or local Act relating to the cathedral;

“office” means a benefice or cathedral preferment.

#### **Commencement Information**

**II** S. 104 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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*Changes to legislation: There are currently no known outstanding effects for the Mission and Pastoral Measure 2011, Cross Heading: General provisions. (See end of Document for details)*

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## 105 Meaning of “benefice” and “parish”

(1) In this Measure—

“benefice” means the office of rector or vicar of a parish or parishes, with cure of souls, but not including (except in section 104) the office of a vicar in a team ministry;

“the area of a benefice” means the parish or parishes belonging to the benefice;

“parish” means, except in sections 21(2)(g) and 62(4), a parish constituted for ecclesiastical purposes, and does not include a conventional district.

(2) If any question arises under this Measure as to whether an ecclesiastical office is a benefice, or whether any area or place is or is within a parish or the area of a benefice or an extra-parochial place, it shall be determined by the Commissioners after consultation with the bishop, and that determination shall be conclusive for the purposes of this Measure.

(3) If any question arises whether any benefice or parish is to be treated, for the purposes of any pastoral scheme or order or any provisions of this Measure relating thereto, as a new benefice or parish or as an existing benefice or parish with altered area or boundaries, any provision of the scheme or order expressly stating or necessarily implying (whether by a change of name or retention of an existing name or otherwise) that the benefice or parish is to be treated as new or existing shall be conclusive of that question.

(4) Nothing in this Measure or in any scheme or order made under it shall be taken as applying to or in any way affecting any parish constituted otherwise than for ecclesiastical purposes.

### Commencement Information

**I2** S. 105 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

## 106 General interpretation

(1) In this Measure, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, that is to say—

“admission” includes institution and induction, collation, licence and any other process by which a person becomes the incumbent of a benefice or (for the purposes of section 104) the holder of a cathedral preferment and “admit” shall be construed accordingly;

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

“charity” has the meaning ascribed to it by [<sup>F1</sup>section 10 of the Charities Act 2011 ];

“church” means a church or chapel which has been consecrated for the purpose of public worship according to the rites and ceremonies of the Church of England, and includes a building used or intended to be used partly for the purpose of such public worship and partly for the purpose of a church hall, whether the whole building is consecrated or only such part thereof as is used or intended to be used for the purpose of such public worship, and any reference to the consecration of a church shall, in the case of such a building, be construed as including a reference to the consecration of the part of the

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building used or intended to be used for the purpose of such public worship as aforesaid;

“the Church Buildings Council” means the body of that name constituted in accordance with section 54 of the Dioceses, Pastoral and Mission Measure 2007 (No. 1);

“the Commissioners” means the Church Commissioners;

“diocesan board of finance” means in relation to a diocese, the board of that name constituted under the Diocesan Boards of Finance Measure 1925 (15 & 16 Geo. 5 No. 3) for that diocese;

“diocesan pastoral account” means, in relation to a diocese, the account referred to in section 93 for that diocese;

“diocesan stipends fund” means, in relation to a diocese, the fund of that name established for that diocese;

“Dioceses Commission” means the body constituted under section 2 of the Dioceses, Pastoral and Mission Measure 2007;

“endowments” in relation to any benefice, does not include a church, churchyard, parsonage house or right of patronage, but subject as aforesaid any question as to what constitutes the endowments of a benefice or the income of the endowments shall be conclusively determined by the Commissioners, who may include income arising from a parsonage house;

“English Heritage” means the Historic Buildings and Monuments Commission for England known as English Heritage;

“functions” includes powers and duties;

“funding period” means a period determined as such by an order made under section 65(1);

“interested parties” has the meanings assigned by section 6 or 21, as the case may be;

“listed building” and “conservation area” have the meanings respectively assigned to them by sections 1(5) and 69(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9);

“local planning authority” has the meaning ascribed to it by section 1 of the Town and Country Planning Act 1990 (c. 8);

“mission” means the whole mission of the Church of England, pastoral, evangelistic, social and ecumenical;

“mission and pastoral committee” means the committee appointed in accordance with section 2;

“National Amenity Societies” means the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings, The Twentieth Century Society and the Victorian Society and such other body as may from time to time be designated by the Dean of the Arches and Auditor as a national amenity society for the purposes of this Measure;

“the 1983 Measure” means the Pastoral Measure 1983 (No. 1);

[<sup>F2</sup>“Parsonages Board” means the Parsonages Board appointed or designated under section 1(1) of the Repair of Benefice Buildings Measure 1972.]

“parsonage house” means the house or other dwelling vested in the incumbent of a benefice (when the benefice is full) and being his or her official residence, and includes any outbuildings or land included in the curtilage of any such house or dwelling and any rights appurtenant thereto;

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“pastoral order” means an order made by the bishop under section 11;

“pastoral scheme” means a scheme made by the Commissioners under Part 3 or 4, and includes (except where it is expressly or by necessary implication excluded) any such scheme made in pursuance of proposals by a joint boundary committee appointed under section 16 and a pastoral church buildings scheme;

“pastoral church buildings scheme” means a pastoral scheme which contains a declaration of closure for regular public worship;

pastoral (church buildings disposal) scheme” has the meaning assigned to it by section 60;

“patron”, in relation to any benefice, means the person or persons for the time being entitled, otherwise than by lapse, 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 is for the time being the person who would be entitled to present on the next or any subsequent turn,

and “right of patronage” shall be construed accordingly:

“provision” in relation to a building, includes, in addition to the construction or erection thereof, the acquisition of a site and the provision of necessary fittings, installations, outbuildings, fences, paths and drives, and “provided” shall be construed accordingly;

“registered patron”, in relation to a benefice or to benefices held in plurality, means every person who is for the time being registered under the Patronage (Benefices) Measure 1986 in a register of patrons as a patron of that benefice or those benefices;

“restoration” includes rebuilding or partial rebuilding;

“sharing agreement” has the same meaning as in the Sharing of Church Buildings Act 1969;

“suspension period” has the meaning assigned to it by section 85;

“the temporary maintenance account” means the account referred to in section 95.

- (2) In determining the net proceeds of the sale or exchange of any property by the Commissioners or the diocesan board of finance, or the net premium or net rent of any property let by the Commissioners or board, the deductions to be made shall include the deduction of any money expended by the Commissioners or board or a mission and pastoral committee on the property or for the purpose of furthering the disposal of the property or on the demolition of any building on the property; and if any question arises as to what are the net proceeds, net premium or net rent aforesaid, the decision of the Commissioners shall be conclusive.
- (3) Any reference in this Measure to the Church Representation Rules shall be construed as a reference to those Rules as for the time being amended by any resolution of the General Synod passed in accordance with section 7(1) of the Synodical Government Measure 1969 (1969 No. 2).

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- (4) Any reference in this Measure to the demolition of a building shall be construed as including a reference to the demolition of part thereof.

**Textual Amendments**

- F1** Words in s. 106(1) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 148](#) (with s. 20(2), [Sch. 8](#))
- F2** Words in s. 106(1) inserted (1.7.2012) by [The Ecclesiastical Offices \(Terms of Service\) \(Consequential Provisions\) Order 2012 \(S.I. 2012/992\)](#), arts. 1(2), 2, [Sch. para. 5](#)

**Commencement Information**

- I3** S. 106 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**107 Saving for planning legislation**

Notwithstanding that the development of any land is or may be authorised or regulated by or under this Measure, the provisions of the enactments relating to town and country planning, and any restrictions or powers thereby imposed or conferred in relation to land, shall apply and may be exercised in relation to any such development.

**Commencement Information**

- I4** S. 107 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**108 Provisions as to guild churches**

- (1) A pastoral church buildings scheme may make a declaration of closure for regular public worship under section 42 with respect to a church designated as a guild church under the City of London (Guild Churches) Acts, 1952 and 1960, other than the church of St. Lawrence Jewry, as if the references to a parish church included references to a guild church, and accordingly provision may be made under Part 6 of this Measure, either by the pastoral church buildings scheme, in accordance with section 59 but not section 58, or by a pastoral (church buildings disposal) scheme, with respect to the guild church or part thereof and any churchyard or other land annexed or belonging to the church.
- (2) When a pastoral church buildings scheme or pastoral (church buildings disposal) scheme making any such provision comes into operation, the Acts mentioned in subsection (1) shall cease to apply to the guild church concerned, and the scheme may provide for such transitional, supplementary and incidental matters as appear to the Commissioners to be necessary.
- (3) A pastoral scheme may make provision in accordance with section 44 with respect to the churchyard or other land annexed or belonging to a guild church, other than the church of St. Lawrence Jewry.
- (4) In relation to a scheme affecting a guild church—
- (a) the interested parties shall be or shall include the vicar of the guild church, the patron of the guild church and the guild church council;

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- (b) the references in sections 9(3) and 24(3) to the secretary of the parochial church council and the parish church or churches shall be or shall include references to the secretary of the guild church council and the guild church.
- (5) It is hereby declared that the incumbent of a benefice or the holder of another ecclesiastical office may be nominated to a vacancy in a guild church but the bishop may refuse his licence on the ground that the benefice or office cannot properly be combined with the office of vicar of the guild church.
- (6) Subject to subsections (1) to (5), nothing in this Measure or in any scheme or order made under it shall apply to or affect any guild church.

**Commencement Information**

**I5** S. 108 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**109 Churches etc. affected by private and local Acts**

- (1) Subject to <sup>F3</sup>subsection (3)], the provisions of this Measure, and in particular those relating to churches closed for regular public worship, shall apply to—
- (a) churches affected by any private or local Act passed before 1st April 1969;
  - (b) land comprising the sites of any such churches or annexed or belonging to any such churches; and
  - (c) any burial ground which is affected by any such Act and is vested in the incumbent of a benefice or is subject to the jurisdiction of the bishop of any diocese;
- and a scheme made under this Measure may amend or revoke any provision of a private or local Act so passed, if it appears to the Commissioners that the provision of the Act is inconsistent with or rendered unnecessary by the provisions of the scheme or the provisions of this Measure applicable thereto.
- (2) Where any private or local Act passed before 1st April 1969 provided for the erection of a new church, with or without other buildings and accommodation, and the bishop of the diocese in which the church was to be erected is satisfied, after consultation with the mission and pastoral committee, that it is no longer expedient for a new church and other buildings and accommodation to be erected as provided by the Act or that a place of worship should be provided instead of that church, a pastoral scheme may provide for any or all of the following—
- (a) for the erection on the land on which the church and any other buildings or accommodation were to be erected of a building suitable for licensing by the bishop as a place of worship;
  - (b) for empowering any person in whom that land is vested to sell, lease or otherwise dispose of it, or any part of it, in such manner and upon and subject to such terms as the scheme may provide;
  - (c) for specifying the purposes for which any moneys received as a result of any such disposal are to be applied;

and any provisions of the Act relating to the erection of the new church and other buildings or accommodation, and any other provisions thereof which are inconsistent with, or rendered unnecessary by, the provisions of the scheme, may be amended or revoked by the scheme.

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In this subsection “place of worship” has the same meaning as in section 58.

- (3) If it appears to the Commissioners that a proposed pastoral or pastoral (church buildings disposal) scheme will affect the rights (other than the patronage rights) of any person under any such private or local Act as is referred to in subsection (1) or (2) they shall, in the case of a pastoral scheme, serve a copy of the draft scheme on that person together with such a notice as is mentioned in sections 9(1) and 24(1) and he or she shall thereafter be deemed to be an interested party in relation to that scheme, and, in the case of a pastoral (church buildings disposal) scheme, they shall serve a copy of the draft scheme on that person under section 62(4).

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**Textual Amendments**

- F3** Words in s. 109(1) substituted (16.3.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\)](#), ss. **15(2)**, **16(2)**

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**Commencement Information**

- I6** S. 109 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

## 110 Transitional provisions

The transitional provisions in Schedule 8 shall have effect.

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**Commencement Information**

- I7** S. 110 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

## 111 Repeals

Subject to the provisions of Schedule 8, the provisions specified in Schedule 9 are hereby repealed to the extent specified in column 2 of that Schedule.

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**Commencement Information**

- I8** S. 111 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

## 112 Short title, extent and commencement

- (1) Subject to subsection (3), 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, if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, shall extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument.

A scheme made for the purpose of such application, and the Order in Council confirming the scheme, may provide for the repeal of the Church Building Acts 1818 to 1884 and any other Acts specified in the schedule to the New Parishes Measure 1943, in their application to the Channel Islands or either of them.

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- (2) The power to apply the provisions of this Measure to the Channel Islands shall not apply to sections 3 and 31 as far as they relate to sharing agreements.
- (3) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint and different days may be appointed for different provisions.
- (4) This Measure may be cited as the Mission and Pastoral Measure 2011.

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**Commencement Information**

**19** S. 112 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**



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