



# Incumbents (Vacation of Benefices) Measure 1977

1977 No. 1

## PART IV **E**

### SUPPLEMENTAL

15 .....<sup>F1</sup> **E**

#### Textual Amendments

**F1** S. 15 repealed by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 14(2), **Sch. 3**

16 **Certain expenses to be paid by Diocesan Board of Finance.** **E**

(1) The following expenses, that is to say—

- (a) any expenses incurred for the purpose of enabling a [<sup>F2</sup>diocesan committee of enquiry or] provincial tribunal to discharge its functions under this Measure;
- (b) any travelling or other personal expenses reasonably incurred by the members of such a [<sup>F2</sup>committee or] tribunal for the purpose of or in connection with the exercise of the functions of the [<sup>F2</sup>committee or] tribunal under this Measure;
- (c) any such expenses reasonably incurred by an incumbent in connection with an enquiry under this Measure which concerns him;
- (d) any such expenses reasonably incurred by an archdeacon under section 2 of this Measure;
- (e) any such expenses reasonably incurred by any person in connection with his attendance at a meeting of a [<sup>F2</sup>committee or] tribunal conducting an enquiry under this Measure, being a meeting which he was entitled, or invited by the [<sup>F2</sup>committee or] tribunal, [<sup>F2</sup>as the case may be,] to attend or which he attended as a witness; [<sup>F3</sup>and

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- (f) any fee payable to the chairman of the tribunal which conducted the enquiry,]<sup>F2</sup>and
- (g) in the case of any other enquiry under this Measure, any fee payable to a barrister or solicitor appointed to advise and assist the committee which conducted the enquiry,]

shall be paid by the Diocesan Board of Finance.

- (2) Any question whether any such expenses as are referred to in paragraph (b), (c), (d) or (e) of subsection (1) above were reasonably incurred or as to the amount thereof shall be determined by the bishop of diocese.

#### Textual Amendments

- F2** Words in s. 16(1) repealed (1.9.1994) by 1993 Measure No.1, s. 14(2), **Sch.4** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F3** S. 16(1)(f) and word“and” preceding it substituted (1.9.1994) for para. (f) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para.8** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

## 17 Exercise of powers of bishop during absence abroad, etc. **E**

During the absence abroad or incapacity through illness of the bishop of a diocese or a vacancy in the see anything required or authorised by this Measure to be done by, to or before him shall be done or, as the case may be, may be done, by to or before the archbishop of the province to which the diocese belongs or a person, being a person in episcopal orders, appointed by that archbishop for that purpose.

## [<sup>F4</sup>18 Procedural rules. **E**

- (1) There shall be a committee, to be known as the Vacation of Benefices Rule Committee, which shall consist of a chairman and four other members appointed by the Standing Committee of the General Synod.
- (2) The Vacation of Benefices Rule Committee shall have power to make rules for carrying into effect the provisions of this Measure and, in particular, for—
  - (a) regulating the procedure and practice (including the mode and burden of proof and admissibility of evidence) of provincial tribunals in connection with enquiries under this Measure;
  - (b) obtaining medical evidence in connection with enquiries under this Measure.
- (3) Any three members of the Vacation of Benefices Rule Committee may exercise all the powers of the committee.
- (4) Any rules made under this section 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

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(b) notice is so given by any such member that he wishes to move an amendment to the rules [<sup>F5</sup>and at least twenty-five other members of the General Synod indicate when the amendment is called that they wish the amendment to be moved],

the rules shall for the purposes of subsection (4) above be deemed to have been approved by the General Synod without amendment.

(6) The Statutory Instruments Act 1946 shall apply to any rules approved by the General Synod under subsection (4) above 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 should be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F4** S. 18 substituted (1.9.1994) by 1993 Measure No. 1, s. 9 (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F5** S. 18: By virtue of 1995 No. 2, s. 14 it is provided (1.9.1995) that, in para. (b) of subsection 5 the words from “and at least” to the end of that para. shall be omitted; Instrument dated 1.9.1995 made by Archbishops of Canterbury and York

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

- C1** S. 18(1): functions transferred (1.1.1999) by S.I. 1998/1715, arts. 1(4), 2, Sch. 1; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York
- C2** S. 18(5): functions transferred (1.1.1999) by S.I. 1998/1715, arts. 1(4), 2, Sch. 1; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York

## 19 Meaning of “benefice”. **E**

Without prejudice to section 6(2) of this Measure, in this Measure “benefice” means the office of rector or vicar, with cure of souls, including the office of vicar in a team ministry established under the <sup>M1</sup>Pastoral Measure 1968 [<sup>F6</sup>or the Pastoral Measure 1983] but does not include any office in a Royal Peculiar nor the office of [<sup>F7</sup>dean of a parish church cathedral; and the reference to a parish church cathedral is to be read with section 40(2) of the Cathedrals Measure 2021].

#### Textual Amendments

- F6** Words in s. 19 inserted (1.9.1994) by 1993 Measure No. 1, s. 14(1), Sch. 3 para.9 (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F7** Words in s. 19 substituted (coming into force in accordance with s. 53(3) of the amending Measure) by Cathedrals Measure 2021 (No. 2), Sch. 4 para. 20 (with ss. 42(4), 48, 52(1))

#### Marginal Citations

- M1** 1968 No. 1.

## [<sup>F8</sup>19A Meaning of references to pastoral situation. **E**

In this Measure any reference to a serious breakdown of the pastoral relationship between an incumbent and the parishioners shall be construed as a reference to a situation where the relationship between an incumbent and the parishioners of the

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parish in question is such as to impede the promotion in the parish of the whole mission of the Church of England, pastoral, evangelistic, social and ecumenical.]

#### Textual Amendments

**F8** S. 19A inserted (1.9.1994) by 1993 Measure No. 1, s.10 (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

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

**C3** S. 19A applied (1.5.1996) by 1988 No. 1, s. 7(1A) (as inserted (1.5.1996) by 1995 No. 1, s. 15; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York)

## 20 Amendments and repeal. **E**

(1) For the section 14 of the <sup>M2</sup> Church Dignitaries (Retirement) Measure 1949 there shall be substituted the following section:—

(1) Where a dignitary, being a dean, provost or archdeacon, is also the incumbent of a parochial benefice a declaration of vacation of his office as dean, provost or deacon made under this Measure shall have effect also of vacating his benefice, whether the office is annexed to the benefice or the benefice to the office.

(2) Where the dignitary, being an archdeacon, canon or prebendary,—

(a) is also the incumbent of a parochial benefice, and

(b) resigns his benefice consequent upon a notification from the bishop under subsection (2)(a) of section 11 of the Incumbents (Vacation of Benefices) Measure 1977 (powers of bishops where enquiry under that Measure results in a finding of mental or physical incapacity), or the bishop has declared his benefice vacant under that section,

the powers of the bishop under section 2 of this Measure shall be exercisable as if the report of the diocesan committee or provincial tribunal under the said Measure of 1977 had been a report by the cathedral chapter under this Measure, and the bishop may execute an instrument declaring the archdeaconry, canonry or prebend, as the case may be, vacant in accordance with that section or, if the case so requires, petition Her Majesty to make such a declaration, and there be no appeal against the exercise of those powers by the bishop.”

(2) The <sup>M3</sup>Incumbents (Disability) Measure 1945 is hereby repealed.

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

**C4** The text of s. 20 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M2** 1949 No. 1

**M3** 1945 No. 3.

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## 21 Short title, extent and commencement. **E**

- (1) This Measure may be cited as the Incumbents (Vacation of Benefices) Measure 1977.
- (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 <sup>M4</sup>Channel Islands (Church Legislation) Measures 1931 and <sup>M5</sup>1957, or either of them, in accordance with those Measures [<sup>F9</sup>and, if an Act of Tynwald or an instrument made in pursuance of 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.].
- (3) Paragraph 2(1) and (2) of the Schedule to this Measure shall come into force on the passing of this Measure and, except as aforesaid, this Measure shall come into force on the expiration of the period of six months beginning with the date on which it is passed.

### Textual Amendments

**F9** Words in s. 21(2) inserted (1.9.1994) by 1993 Measure No. 1, s.11 (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

### Marginal Citations

**M4** 1931 No. 4.  
**M5** 1957 No. 1.

**Changes to legislation:**

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