

Changes to legislation: There are currently no known outstanding effects for the Mission and Pastoral etc. (Amendment) Measure 2018, Cross Heading: Incumbents (Vacation of Benefices) Measure 1977. (See end of Document for details)

SCHEDULE

COMPENSATION OF OFFICE-HOLDERS: CONSEQUENTIAL AMENDMENTS

Incumbents (Vacation of Benefices) Measure 1977

- 1 In section 7 of the Incumbents (Vacation of Benefices) Measure 1977 (the title to which becomes “Panels and tribunals”), for subsection (1) substitute—

“(1) Panels of persons for the purposes of this Measure are to be appointed in accordance with Part 1 of Schedule 1; and provincial tribunals for the purposes of this Measure are to be constituted in accordance with Part 2 of Schedule 1, with certain of the members of provincial tribunals being appointed from the panels appointed in accordance with Part 1 of Schedule 1.”

Commencement Information

- I1** Sch. para. 1 in force at 1.7.2018 by S.I. 2018/722, art. 2(a) (with Sch. para. 3)

- 2 In section 12A of that Measure (right of appeal against findings of provincial tribunal), in subsection (5), for the words from “in the same way” to the end substitute “in accordance with Part 3 of Schedule 1, with certain of the members of the Appeal Panels being appointed from the panels appointed in accordance with Part 1 of Schedule 1.”

Commencement Information

- I2** Sch. para. 2 in force at 1.7.2018 by S.I. 2018/722, art. 2(a) (with Sch. para. 3)

- 3 For Schedule 1 to that Measure (provincial tribunals) substitute the following—

“SCHEDULE 1

Sections 7 and 12A

PANELS AND TRIBUNALS

PART 1

GENERAL PANELS

Membership

- 1 (1) A panel of twelve persons is to be appointed from among the members of the Lower House of the Convocation of Canterbury by the Standing Committee of that House in such manner as that House may determine.
- (2) A panel of twelve persons is to be appointed from among the members of the Lower House of the Convocation of York by the body of Assessors of that House in such manner as that House may determine.

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- (3) A panel of twelve persons is to be appointed from among the members of the House of Laity by the Standing Committee of that House in such manner as that House may determine.

Period of service

- 2 (1) An appointment under paragraph 1(1) or (2) is for the lifetime of the Convocation concerned; and an appointment under paragraph 1(3) is for the lifetime of that House of Laity.
- (2) Where a casual vacancy arises, another member of the House concerned is to be appointed in place of the person vacating office, in such manner as that person was appointed, for the remainder of the lifetime of that House.
- (3) A person appointed under paragraph 1 is, when a new House is to be elected, to continue to hold the appointment until the first session of the new House.

PART 2

PROVINCIAL TRIBUNALS

Membership

- 3 (1) A provincial tribunal is to consist of five persons appointed by the Vicar-General of the province in which the parish in question is situated.
- (2) Of the five persons to be so appointed—
- (a) one, who is to be the chair, shall be—
- (i) the chancellor of a diocese in the province for which the tribunal is to be appointed, other than the diocese in which the parish in question is situated, or
- (ii) a Queen's Counsel who is a communicant member of the Church of England;
- (b) two are to be clerks in Holy Orders from the panel appointed under paragraph 1(1) or (2) for the province concerned;
- (c) two are to be lay persons from the panel appointed under paragraph 1(3).
- (3) But a person may not be appointed under this paragraph if—
- (a) the person is ordinarily resident in the diocese in which the parish in question is situated,
- (b) the person's name is entered on the electoral roll of a parish in that diocese, or
- (c) the person is a clerk in Holy Orders authorised to exercise ministry in a parish in that diocese.
- (4) Where, in the course of an enquiry being conducted by a provincial tribunal, a member of the tribunal other than the chair dies or becomes unable to act as a member by reason of illness or other incapacity, the tribunal may, with the consent of the parties, continue to conduct the enquiry in the absence of that member.

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Requirement to constitute tribunals

- 4 (1) Where the secretary of a diocesan synod is required to institute an enquiry under this Measure, the secretary shall request the Vicar-General of the province—
- (a) to constitute a provincial tribunal in accordance with paragraph 3, and
 - (b) to send the secretary a list of the names and addresses of the proposed members.
- (2) A person appointed to serve as a member of the tribunal from a panel appointed under paragraph 1 may refuse to accept the appointment if, in that person's opinion, it would not be right for that person to serve as a member of the tribunal.
- (3) On receiving the list under sub-paragraph (1)(b), the secretary shall—
- (a) send a copy of it to the incumbent concerned, and
 - (b) inform the incumbent of the right of objection under paragraph 5 and the period in which the right may be exercised.

Right of objection

- 5 (1) The incumbent may, within three weeks after a list of the proposed members is sent under paragraph 4(3), object to one or more of them by sending the secretary of the diocesan synod a written notice—
- (a) specifying the member or members to whom the incumbent objects, and
 - (b) stating, in relation to that member or in relation to each of them, the grounds of objection.
- (2) If notice of objection is duly given under sub-paragraph (1), the secretary shall refer the matter to the Vicar-General of the province other than that for which the tribunal is to be appointed, for the Vicar-General to determine whether the objection is reasonable and should accordingly be allowed; and the Vicar-General's decision is final.
- (3) For the purpose of deciding whether the objection is reasonable, the Vicar-General may require the incumbent to supply such information as the Vicar-General may specify.
- (4) Where the Vicar-General decides that the objection to a member should be allowed, the secretary shall request the Vicar-General mentioned in paragraph 3(1)—
- (a) to appoint another person having the appropriate qualifications to serve in place of that member, and
 - (b) to inform the secretary of the name and address of the person appointed.
- (5) On receiving information under sub-paragraph (4)(b), the secretary shall inform the incumbent of the name and address of the person appointed.
- (6) The incumbent may, within three weeks of receiving information under sub-paragraph (5), object to the person appointed by sending the secretary a

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written notice stating the grounds of objection; and sub-paragraphs (2) to (5) have effect in relation to the notice as if it were a notice given under sub-paragraph (1).

- (7) But the incumbent is not entitled to object under sub-paragraph (6) to a person appointed from a panel appointed under paragraph 1 if, were the objection to be allowed, it would not be possible to constitute the tribunal because there would be no other person on that panel available for appointment as a member of the tribunal.

Circulation of list of members

- 6 As soon as the provincial tribunal which is to conduct an enquiry has been constituted, the secretary of the diocesan synod shall send a list of the members to—
- (a) the incumbent concerned,
 - (b) the archdeacon concerned,
 - (c) the designated representative (if any),
 - (d) the secretary of the parochial church council of the parish to which the enquiry relates, and
 - (e) the secretary of the tribunal (see paragraph 7).

Secretary

- 7 (1) The Synodical Secretary of the Convocation of Canterbury, or a person nominated by the Synodical Secretary, shall act as secretary of a tribunal constituted under this Part of this Schedule to conduct an enquiry in relation to a parish in the province of Canterbury.
- (2) The Synodal Secretary of the Convocation of York, or a person nominated by the Synodal Secretary, shall act as secretary of a tribunal so constituted to conduct an enquiry in relation to a parish in the province of York.

PART 3

APPEAL PANELS

Introductory

- 8 Each of the Appeal Panels established under section 12A is to be constituted as follows.

Membership

- 9 (1) The Dean of the Arches and Auditor is to be the chair, and the Vicar-General of the province of Canterbury and the Vicar-General of the province of York are to be the deputy chairs.
- (2) Where an appeal is to be held under section 12A, one of those three is to sit on and preside over the appeal.

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- (3) But if there is not one of them available to preside over an appeal under that section, a chancellor of a diocese nominated by the Dean of the Arches and Auditor or, in the case of the Dean's absence or illness, by the Vicar-General of the province concerned is to preside.
- (4) Where an appeal is to be held under section 12A, the following persons are to be nominated in the manner described in sub-paragraph (3) to sit on the appeal—
 - (a) three persons from the panel appointed under paragraph 1(1) or (2) for the province in question, and
 - (b) one person from the panel appointed under paragraph 1(3).
- (5) But a person may not sit on an appeal under section 12A if the person—
 - (a) was a member of the provincial tribunal which conducted the enquiry which is the subject of the appeal, or
 - (b) was ineligible to be appointed to that tribunal under Part 2 of this Schedule.

Secretary

- 10 (1) The registrar of each province must appoint a secretary to the Appeal Panel for that province; and that person may be the registrar.
- (2) The same person may be appointed by both registrars; and the two registrars may agree that one of them is to be the secretary to both Appeal Panels.

Expenses

- 11 The expenses of an Appeal Panel in connection with an appeal under section 12A are to be paid out of moneys standing to the credit of the diocesan pastoral account of the diocese from which the appeal is brought.

Rules

- 12 (1) The Rule Committee may make rules prescribing the procedure on an appeal under section 12A.
- (2) Rules made under sub-paragraph (1) are to be treated for the purposes of section 94 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 as having been made under section 83 of that Measure.

PART 4

TRANSITIONAL PROVISIONS

Continuation of existing memberships

- 13 (1) Each person who, immediately before commencement, was a member of a panel appointed under paragraph 13(1)(b) of Schedule 4 to the Mission and Pastoral Measure 2011 in the form it then took—
 - (a) is to become a member of the panel for the province in question under paragraph 1(1) or (2) of this Schedule in its new form, and

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- (b) is accordingly to be treated as having been appointed under that provision.
- (2) Each person who, immediately before commencement, was a member of the panel appointed under paragraph 13(1)(c) of Schedule 4 to the Mission and Pastoral Measure 2011 in the form it then took—
 - (a) is to become a member of the panel under paragraph 1(3) of this Schedule in its new form, and
 - (b) is accordingly to be treated as having been appointed under that provision.
- (3) Each person who, immediately before commencement, was a member of a provincial tribunal under paragraph 1 of this Schedule in the form it then took—
 - (a) is to become a member of the provincial tribunal for the province in question under paragraph 3 of this Schedule in its new form,
 - (b) is accordingly to be treated as having been appointed under that provision, and
 - (c) if the tribunal was conducting an enquiry immediately before commencement, is to continue as a member of the Panel until the determination of the appeal.
- (4) Each person who, immediately before commencement, was a member of an Appeal Panel constituted under section 12A in the form it then took—
 - (a) is to become a member of the Appeal Panel for the province in question under section 12A in its new form,
 - (b) is accordingly to be treated as having been appointed and nominated in accordance with paragraph 9 of this Schedule in its new form, and
 - (c) if an appeal was pending before the Appeal Tribunal immediately before commencement, is to continue as a member of the Panel until the determination of the appeal.
- (5) In this paragraph, “commencement” means the commencement of section 6 of the Mission and Pastoral etc. (Amendment) Measure 2018; and in this paragraph—
 - (a) a reference to this Schedule in its new form is a reference to this Schedule as substituted by paragraph 3 of the Schedule to that Measure, and
 - (b) a reference to section 12A in its new form is a reference to that section as amended by paragraph 2 of the Schedule to that Measure.”

Commencement Information

I3 Sch. para. 3 in force at 1.7.2018 by S.I. 2018/722, art. 2(a) (with Sch. para. 3)

- 4 (1) This paragraph applies if sections 81 to 83 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 have not come into force before the commencement of section 6 of this Measure.
- (2) In this paragraph, “the appointed day” means the day on which sections 81 to 83 of that Measure come into force under an order made under section 99 of that Measure.
- (3) This Schedule has effect until the appointed day as if—

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- (a) in Schedule 1 to the Incumbents (Vacation of Benefices) Measure 1977 as substituted by paragraph 3 of this Schedule, for paragraph 12 there were substituted—

“12 (1) The Rule Committee established by section 25 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 may make rules prescribing the procedure on an appeal under section 12A.

(2) Rules made under sub-paragraph (1) are to be treated for the purposes of section 27 of that Measure as having been made under section 26 of that Measure.”, and

- (b) after paragraph 3, there were inserted—

“Care of Churches and Ecclesiastical Jurisdiction Measure 1991

3A In section 25(2) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (members of Rule Committee), omit paragraph (d).

3B In section 26(1) of that Measure (provision which may be made by rules), omit the second paragraph (f).”

Commencement Information

I4 Sch. para. 4 in force at 1.7.2018 by S.I. 2018/722, art. 2(a) (with Sch. para. 3)

Changes to legislation:

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