



Pluralities Act 1838

1838 CHAPTER 106 1 and 2 Vict

An Act to abridge the holding of Benefices in Plurality, and to make better provision for the Residence of the Clergy. [14th August 1838]

Modifications etc. (not altering text)

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Preamble omitted under authority of [Statute Law Revision \(No. 2\) Act 1890 \(c. 51\)](#)

Commencement Information

- I1 Act wholly in force at Royal Assent

1 F1

Textual Amendments

- F1 [S. 1](#) repealed by [Statute Law Revision \(No. 2\) Act 1874 \(c. 96\)](#)

2—27. F2

Textual Amendments

- F2 [Ss. 2—27](#) repealed by [Pastoral Measure 1968 \(No. 1\)](#), [Sch. 9](#) and [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. 1 Pt. VII](#)

Status: Point in time view as at 05/11/1993.

Changes to legislation: Pluralities Act 1838 is up to date with all changes known to be in force on or before 07 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

28 Spiritual persons not to take to farm for occupation above eighty acres, without consent of the bishop, and then not beyond seven years, under penalty of £2 per acre.

It shall not be lawful for any spiritual person holding any cathedral preferment or benefice, or any curacy or lectureship, or who shall be licensed or otherwise allowed to perform the duties of any ecclesiastical office whatever, to take to farm for occupation by himself, by lease, grant, words, or otherwise, for term of life or of years, or at will, any lands exceeding eighty acres in the whole, for the purpose of occupying or using or cultivating the same, without the permission in writing of the bishop of the diocese specially given for that purpose under his hand; and every such permission to any spiritual person to take to farm for the purpose aforesaid any greater quantity of land than eighty acres shall specify the number of years, not exceeding seven, for which such permission is given; and every such spiritual person who shall without such permission so take to farm any greater quantity of land than eighty acres, shall forfeit for every acre of land above eighty acres so taken to farm the sum of [^{F3}two pounds] for each year during or in which he shall so occupy, use, or cultivate such land contrary to the provision aforesaid.

Textual Amendments

F3 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

Modifications etc. (not altering text)

C3 [S. 28](#) excluded by [Clergy \(Ordination and Miscellaneous Provisions\) Measure 1964 \(No. 6\), s. 11\(1\)](#)

29 No spiritual person, beneficed or performing ecclesiastical duty shall engage in trade, or buy to sell again for profit or gain.

It shall not be lawful for any spiritual person holding any such cathedral preferment, benefice, curacy, or lectureship, or who shall be licensed or allowed to perform such duties as aforesaid, by himself or by any other for him or to his use, to engage in or carry on any trade or dealing for gain or profit, or to deal in any goods, wares, or merchandize, unless in any case in which such trading or dealing shall have been or shall be carried on by or on behalf of any number of partners exceeding the number of six, or in any case in which any trade or dealing, or any share in any trade or dealing, shall have devolved or shall devolve upon any spiritual person, or upon any other person for him or to his use, under or by virtue of any devise, bequest, inheritance, intestacy, settlement, marriage, bankruptcy, or insolvency; but in none of the foregoing excepted cases shall it be lawful for such spiritual person to act as a director or managing partner, or to carry on such trade or dealing as aforesaid in person.

Modifications etc. (not altering text)

C4 [S. 29](#) excluded by [Clergy \(Ordination and Miscellaneous Provisions\) Measure 1964 \(No. 6\), s. 11\(1\)](#)

30 Not to extend to spiritual persons engaged in keeping schools, or as tutors, &c. in respect of any thing done, or any buying or selling in such employment; or to selling any thing bona fide bought for the use of the family, or being a manager,

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&c. in any benefit or life or fire assurance society; or buying and selling cattle, &c. for the use of their own lands, &c.

Provided always, that nothing herein-before contained shall subject to any penalty or forfeiture any spiritual person for keeping a school or seminary, or acting as a schoolmaster or tutor or instructor, or being in any manner concerned or engaged in giving instruction or education for profit or reward, or for buying or selling or doing any other thing in relation to the management of any such school, seminary, or employment, or to any spiritual person whatever for the buying of any goods, wares, or merchandizes, or articles of any description, which shall without fraud be bought with intent at the buying thereof to be used by the spiritual person buying the same for his family or in his household, and after the buying of any such goods, wares, or merchandizes, or articles, selling the same again or any parts thereof which such person may not want or choose to keep, although the same shall be sold at an advanced price beyond that which may have been given for the same; or for disposing of any books or other works to or by means of any bookseller or publisher; or for being a manager, director, partner, or shareholder in any benefit society, or fire or life assurance society, by whatever name or designation such society may have been constituted; or for any buying, or selling again for gain or profit, of any cattle or corn or other articles necessary or convenient to be bought, sold, kept, or maintained by any spiritual person, or any other person for him or to his use, for the occupation, manuring, improving, pasturage, or profit of any glebe demesne land, or other lands or hereditaments which may be lawfully held and occupied, possessed, or enjoyed by such spiritual person, or any other for him or to his use; or for selling any minerals the produce of mines situated on his own lands; so nevertheless that no such spiritual person shall buy or sell any cattle or corn or other articles as aforesaid in person in any market, fair, or place of public sale.

Modifications etc. (not altering text)

C5 S. 30 excluded by Clergy (Ordination and Miscellaneous Provisions) Measure 1964 (No. 6), s. 11(1)

31 Spiritual persons illegally trading may be suspended, and for the third offence deprived.

If any spiritual person shall trade or deal in any manner contrary to the provisions of this Act, it shall be lawful for the bishop of the diocese where such person shall hold any cathedral preferment, benefice, curacy, or lectureship, or shall be licensed or otherwise allowed to perform the duties of any ecclesiastical office whatever, to cause such person to be cited before [^{F4}the bishop's court]; and it shall be lawful for [^{F4}the Court], on proof in due course of law of such trading, to suspend such spiritual person for his first offence for such time not exceeding one year as to such judge shall seem fit; and on proof in like manner . . . ^{F5} of a second offence committed by such spiritual person subsequent to such sentence of suspension, such spiritual person shall for such second offence be suspended for such time as to [^{F4}the court] shall seem fit, and for his third offence be deprived ab officio et beneficio, and thereupon it shall be lawful for the patron or patrons of any such cathedral preferment, . . . ^{F6}, lectureship, or office to make donation or to present or nominate to the same as if the person so deprived were actually dead; and in all such cases of suspension the bishop during such suspension shall sequester the profits of any cathedral preferment, benefice, lectureship, or office of which such spiritual person may be in possession, and by an order under his hand direct the application of the profits of the same respectively, after

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deducting the necessary expences of providing for the due performance of the duties of the same respectively, towards the same purposes and in the same order, as near as the difference of circumstances will admit, as are herein-after directed with respect to the profits of a benefice sequestered in case of non-compliance after monition with an order requiring a spiritual person to proceed and reside on his benefice, save that no part of such profits shall be paid to the spiritual person so suspended nor applied in satisfaction of a sequestration at the suit of a creditor; and in case of deprivation the bishop shall forthwith give notice thereof in writing under his hand to the patron or patrons of any cathedral preferment, . . . ^{F6}, lectureship, or office which the said spiritual person may have holden, in the manner herein-after required with respect to notice to the patron of a benefice continuing under sequestration for one whole year, and thereby becoming void, and any such cathedral preferment . . . ^{F7} shall lapse at such period after the said notice as any such last-mentioned benefice would under the provisions of this Act lapse: Provided always, that no contract shall be deemed to be void by reason only of the same having been entered into by a spiritual person trading or dealing, either solely or jointly with any other person or persons, contrary to the provisions of this Act; but every such contract may be enforced by or against such spiritual person, either solely or jointly with any other person or persons, as the case may be, in the same way as if no spiritual person had been party to such contract.

Textual Amendments

- F4 Words substituted by [Ecclesiastical Jurisdiction Measure 1963 \(No. 1\), Sch. 4](#)
- F5 Words repealed by [Ecclesiastical Jurisdiction Measure 1963 \(No. 1\), Sch. 4](#)
- F6 Word repealed by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\), s. 41\(2\), Sch. 5](#)
- F7 Words repealed by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\), s. 41\(2\), Sch. 5](#)

Modifications etc. (not altering text)

- C6 [S. 31](#) excluded by [Clergy \(Ordination and Miscellaneous Provisions\) Measure 1964 \(No. 6\), s. 11\(1\)](#)

32 Penalties for non-residence on incumbent not having a licence or exemption, unless he be resident on another benefice.

Every spiritual person holding any benefice shall keep residence on his benefice, and in the house of residence (if any) belonging thereto; and if any such person shall, without any such licence or exemption as is in this Act allowed for that purpose, or unless he shall be resident at some other benefice of which he may be possessed, absent himself from such benefice, or from such house of residence, if any, for any period exceeding the space of three months together, or to be accounted at several times in any one year, he shall, when such absence shall exceed three months and not exceed six months, forfeit one third part of the annual value of the benefice from which he shall so absent himself; and when such absence shall exceed six months and not exceed eight months, one half part of such annual value; and when such absence shall exceed eight months, two third parts of such annual value; and when such absence shall have been for the whole of the year, three fourth parts of such annual value.

33 Licence to reside out of the usual house, if unfit.

It shall be lawful for any bishop, upon application in writing by any spiritual person holding any benefice within his diocese whereon there shall be no house or no fit house of residence, by licence under his hand and seal, to be registered in the registry of the diocese, which the registrar is hereby required to do, to permit such person to reside in

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some fit and convenient house, although not belonging to such benefice, such house to be particularly described and specified in such licence, and for a certain time to be therein also specified, not exceeding the period by this Act limited, and from time to time, as such bishop may think fit, to renew such licence; and every such house shall be a legal house of residence for such specified time to all intents and purposes: Provided always, that no such licence shall be granted to such spiritual person to reside in any house unless it be within three miles of the church or chapel of such benefice, nor in case such church or chapel be in any city, or market or borough town, unless such house be within two miles of such church or chapel.

34 Houses purchased by governors of Queen Anne's bounty to be deemed residences.

And whereas the governors of the bounty of Queen Anne have purchased, built, or procured, and may hereafter purchase, build, or procure, by way of benefaction or donation to poor benefices, houses not situate within the parishes or places wherein such benefices lie, but so near thereto as to be sufficiently convenient and suitable for the residence of the officiating ministers thereof: such houses having been previously approved by the bishop of the diocese, by writing under his hand and seal duly registered in the registry of the diocese, shall be deemed the houses of residence belonging to such benefices to all intents and purposes whatsoever.

Modifications etc. (not altering text)

C7 Functions of governors of Queen Anne's Bounty now exercisable by Church Commissioners: [Church Commissioners Measure 1947 \(No. 2\), s. 2](#)

F8 35

Textual Amendments

F8 [S. 35](#) repealed (Provinces of Canterbury and York except Channel Islands and the Isle of Man) (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992 \(No. 1\), s. 17\(2\), Sch. 4 Pt. I](#); Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York

36 Widow of any spiritual person may continue in the house of residence for two months after his decease.

From and after the decease of any spiritual person holding any benefice to which a house of residence is annexed, and in which he shall have been residing at the time of his decease, it shall be lawful for the widow of such spiritual person to occupy such house for any period not exceeding two calendar months after the decease of such spiritual person, holding and enjoying therewith the curtilage and garden belonging to such house.

37 Certain persons exempt from penalties for non-residence.

No spiritual person, being head ruler of any college or hall within either of the universities of Oxford or Cambridge, or being warden of the university of Durham, or

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being headmaster of Eton, Winchester, or Westminster school . . . ^{F9} and not having respectively more than one benefice with cure of souls, shall be liable to any of the penalties or forfeitures in this Act contained for or on account of non-residence on any benefice.

Textual Amendments

F9 Words repealed by [Statute Law Revision \(No. 2\) Act 1874 \(c. 96\)](#)

38 Privileges for temporary non-residence.

No spiritual person being dean of any cathedral or collegiate church, during such time as he shall reside upon his deanery; and no spiritual person having or holding any professorship or any public readership in either of the said universities, while actually resident within the precincts of the university and reading lectures therein (provided always, that a certificate under the hand of the vice chancellor or warden of the university, stating the fact of such residence, and of the due performance of such duties, shall in every such case be transmitted to the bishop of the diocese wherein the benefice held by such spiritual person is situate within six weeks after the thirty-first day of December in each year); and no spiritual person serving as chaplain of the Queen's or King's most excellent Majesty, or of the Queen dowager, or of any of the Queen's or King's children, brethren, or sisters, during so long as he shall actually attend in the discharge of his duty as such chaplain in the household to which he shall belong; and no chaplain of any archbishop or bishop, whilst actually attending in the discharge of his duty as such chaplain; and no spiritual person actually serving as chaplain of the House of Commons, or as clerk of the Queen's or King's closet, or as a deputy clerk thereof, while any such person shall be actually attending and performing the functions of his office; and no spiritual person serving as chancellor or vicar general or commissary of any diocese, whilst exercising the duties of his office; or as archdeacon, while upon his visitation, or otherwise engaged in the exercise of his archidiaconal functions; or as dean or subdean, or priest or reader, in any of the Queen's or King's royal chapels at Saint James's or Whitehall, or as reader in the Queen's or King's private chapels at Windsor or elsewhere, or as preacher in any of the inns of court, or at the rolls, whilst actually performing the duty of any such office respectively; and no spiritual person, being provost of Eton college, or warden of Winchester college, or master of the Charter House, or principal of Saint David's college, or principal of King's college, London, during the time for which he may be required to reside and shall actually reside therein respectively; shall be liable to any of the penalties or forfeitures in this Act contained for or on account of non-residence on any benefice for the time in any year during which he shall be so as aforesaid resident, engaged, or performing duties, as the case may be; but every such spiritual person shall, with respect to residence on a benefice under this Act, be entitled to account the time in any year during which he shall be so as aforesaid resident, engaged, or performing duties, as the case may be, as if he had legally resided during the same time on some other benefice; any thing in this Act contained to the contrary notwithstanding.

39 Performance of cathedral duties, &c. may be accounted as residence, under certain restrictions.

It shall be lawful for any spiritual person, being prebendary, canon, priest, vicar, vicar choral, or minor canon in any cathedral or collegiate church, or being a fellow of one

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of the said colleges of Eton or Winchester, who shall reside and perform the duties of such office during the period for which he shall be required to reside and perform such duties by the charter or statutes of such cathedral or collegiate church or college, as the case may be, to account such residence as if he had resided on some benefice: Provided always, that nothing herein contained shall be construed to permit or allow any such prebendary, canon, priest, vicar, vicar choral, minor canon, or fellow, to be absent from any benefice on account of such residence and performance of duty for more than five months altogether in any one year, including the time of such residence on his prebend, canonry, vicarage, or fellowship: Provided also, that it shall be lawful for any spiritual person having or holding any such office in any cathedral or collegiate church or college in which the year for the purposes of residence is accounted to commence at any other period than the first of January, and who may keep the periods of residence required for two successive years at such cathedral or collegiate church or college, in whole or in part, between the first of January and the thirty-first of December in any one year, to account such residence, although exceeding five months in the year, as reckoned from the first of January to the thirty-first of December, as if he had resided on some benefice, anything in this Act contained to the contrary notwithstanding.

40 F10

Textual Amendments

F10 S. 40 repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

41 F11

Textual Amendments

F11 S. 41 repealed by [Repair of Benefice Buildings Measure 1972 \(No. 2\), Sch. 2](#)

42 Every petition for licence for non-residence to be in writing, and to state certain particulars.

Every spiritual person applying for a licence for non-residence shall present to the bishop a petition signed by himself or by some person approved by the bishop in that behalf, and shall state therein whether such spiritual person intends to perform the duty of his benefice in person, and in that case where and at what distance from the church or chapel of such benefice he intends to reside; and if he intends to employ a curate, such petition shall state what salary he proposes to give to such curate and whether the curate proposes to reside or not to reside in the parish in which such benefice is situate; and if the curate intends to reside therein, then whether in the house of residence belonging to such benefice, or in some and what other house; and if he does not intend to reside in the parish, then such petition shall state at what distance therefrom, and at what place, such curate intends to reside, and whether such curate serves any other and what parish as incumbent or curate, or has any and what cathedral preferment, and any and what benefice, or officiates in any other and what church or chapel; and such petition shall also state the annual value and the population of the benefice in respect of which any licence for non-residence shall be applied for, and the number of churches or chapels, if more than one, upon such benefice, and the date of

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the admission of such spiritual person to the said benefice; and it shall not be lawful for the bishop to grant any such licence unless such petition shall contain a statement of the several particulars aforesaid; and every such petition shall be filed in the registry of the diocese by the registrar thereof, and shall be open to inspection, and copies thereof made, with the leave in writing of the bishop.

43 Bishop may grant licences for non-residence in certain enumerated cases. Appeal to archbishop in case of refusal.

It shall be lawful for the bishop, upon such petition being presented to him, and upon such proofs being adduced as to any facts stated in any such petition as he may think necessary and shall require, to grant, in such cases as are herein-after enumerated, in which he shall think fit to grant the same, a licence in writing under his hand for such spiritual person to reside out of the proper house of residence of his benefice, or out of the limits of his benefice, or out of the limits prescribed by this Act, for the purpose of exempting such person from any pecuniary penalty in respect of any non-residence thereon, which licence shall express the cause of granting the same licence; (that is to say,) to any spiritual person who shall be prevented from residing in the proper house of residence or within the limits of such benefice, or within the limits prescribed by this Act, by any incapacity of mind or body; and also for a period not exceeding six months to any spiritual person on account of the dangerous illness of his wife or child making part of his family, and residing with him as such; but no such licence on account of the illness of a wife or child shall be renewed save with the allowance of the archbishop of the province previously signified under his hand in pursuance of a recommendation in writing from the bishop, setting forth the circumstances, proofs, and reasons which induce him to make such recommendations, and also to any spiritual person having or holding any benefice wherein there shall be no house of residence, or where the house of residence shall be unfit for the residence of such spiritual person, such unfitness not being occasioned by any negligence, default, or other misconduct of such spiritual person, and such spiritual person keeping such house of residence, if any, and the buildings belonging thereto, in good and sufficient repair and condition to the satisfaction of the bishop, and a certificate under the hand of two neighbouring incumbents, countersigned by the rural dean, if any, that no house convenient for the residence of such spiritual person can be obtained within the parish, or within the limits prescribed by this Act, being first produced to the bishop; and also to grant to any spiritual person holding any benefice, and occupying in the same parish any mansion or messuage whereof he shall be the owner, a licence to reside in such mansion or messuage, such spiritual person keeping the house of residence and other buildings belonging thereto in good and sufficient repair and condition, and producing to the bishop proof to his satisfaction at the time of granting every such licence of such good and sufficient repair and condition: Provided always, that any such spiritual person, within one month after refusal of any such licence, may appeal to the archbishop of the province, who shall confirm such refusal, or direct the bishop to grant a licence under this Act, as shall seem to the said archbishop just and proper.

44 In cases not enumerated bishops may grant licences to reside out of limits of benefice, subject to allowance by the archbishop.

It shall be lawful for any bishop, in any case not herein-before enumerated, in which such bishop shall think it expedient, to grant to any spiritual person holding any benefice within his diocese a licence to reside out of the limits of such benefice; Provided always, that in every such case the nature and special circumstances thereof,

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and the reasons that have induced such bishop to grant such licence, shall be forthwith transmitted to the archbishop of the province, who shall forthwith proceed therein as herein-after provided in cases of appeal, and shall allow or disallow such licence in the whole or in part, or make any alteration therein, as to the period for which the same may have been granted or otherwise; and no such licence shall be valid unless it shall have been so allowed by such archbishop such allowance thereof being signified by the signing thereof by such archbishop: Provided also, that it shall not be necessary in such licence to specify the cause of granting the same.

^{F12}45

Textual Amendments

F12 S. 45 repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(2), **Sch. 4 Pt. I**; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York

^{F13}46

Textual Amendments

F13 S. 46 repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(2), **Sch. 4 Pt. I**; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York

47^{F14}

Textual Amendments

F14 S. 47 repealed by Ecclesiastical Fees Measure, 1962 (No. 1), **Sch. Pt. I**

48 Licences not to be void by the death or removal of the grantor.

No licence of non-residence shall become void by the death or removal of the bishop granting the same; but the same shall be and remain valid, notwithstanding any such death or removal, unless the same shall be revoked as herein-after mentioned.

49 Licences may be revoked.

It shall be lawful for any archbishop or bishop who shall have granted any licence of non-residence as aforesaid, or for any successor of any such archbishop or bishop, after having given such incumbent sufficient opportunity of showing reason to the contrary, in any case in which there may appear to such archbishop or bishop good cause for revoking the same, by an instrument in writing under his hand to revoke any such licence: Provided always, that any such incumbent may, within one month after service upon him of such revocation, if by a bishop, appeal to the archbishop

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of the province, who shall confirm or annul such revocation as to him shall appear just and proper.

50 Copies of licences or revocations to be filed in the registry of the diocese, and a list kept for inspection;

Every bishop who shall grant or revoke any licence of non-residence under this Act, shall and he is hereby required, within one month after the grant or revocation of such licence, to cause a copy of every such licence or revocation to be filed in the registry of his diocese; ^{F15} . . .

Textual Amendments

F15 Words in s. 50 repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by Church of England (Miscellaneous Provisions) Measure (No. 1), s. 17(2), Sch. 4 Pt. I; Instrument dated 27.5.1992 made by the [Archbishops of Canterbury and York](#)

51 List of licences allowed by the archbishop, or granted in his own diocese, to be annually transmitted to her Majesty in council, who may revoke licences, &c. Licence, although revoked, to be deemed valid between the grant and revocation.

Every archbishop who shall in his own diocese grant any licence or non-residence, or who shall approve and allow, in manner directed by this Act, any such licence in any case not enumerated in this Act, or any renewal of a licence in the case of the dangerous illness of the wife or child of any spiritual person, shall annually in the month of January in each year transmit to her Majesty in council a list of all licences or renewals so granted or allowed by such archbishop respectively in the year ending on the last day of December preceding such month of January, and shall in every such list specify the reasons which have induced him to grant or allow each such licence or renewal, together with the reasons transmitted to him by the bishops for granting or recommending each such licence in their respective dioceses; and it shall be lawful for her Majesty in council, by an order made for that purpose, to revoke and annul any such licence; and if her Majesty in council shall think fit so to do, such order shall be transmitted to the archbishop who shall have granted or approved and allowed such licence or renewal, who shall thereupon cause a copy of every such order to be transmitted to the bishop of the diocese in which such licence shall have been granted; and such bishop shall cause a copy of the mandatory part of the order to be filed in the registry of such diocese, and a like copy to be delivered to the churchwardens or chapelwardens of the parish or place to which the same relates, in manner hereinbefore directed as to revocation of licences; and every such archbishop shall cause a copy of the mandatory part of every such order made in relation to any such licence granted by him in his own diocese to be in like manner filed in the registry of his diocese, and a like copy also to be delivered to the churchwardens or chapelwardens of the parish or place to which such licence shall relate in manner before mentioned: Provided always, that after such licence shall have been so revoked by her Majesty in council the same shall nevertheless in all questions that shall have arisen or may thereafter arise touching the non-residence of the spiritual person to whom the same shall have been granted, between the time at which the same was granted or approved and allowed and the time of the revocation thereof being so filed in the registry, be deemed and taken to have been valid.

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52 F16

Textual Amendments

F16 Ss. 52, 53 repealed by Pluralities Act 1838 (Amendment) Measure 1922 (No. 2)

53 F17

Textual Amendments

F17 Ss. 52, 53 repealed by Pluralities Act 1838 (Amendment) Measure 1922 (No. 2)

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, 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, . . . ^{F18} 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 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

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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 [^{F19}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

F18 Words repealed by [Statute Law Revision \(No. 2\) Act 1874 \(c. 96\)](#)

F19 Words substituted by virtue of [Church Commissioners Measure 1947 \(No. 2\), s. 8\(2\)](#)

55 Incumbents returning to residence on monition to pay the costs.

Every spiritual person to whom any such monition or order in writing shall be issued as aforesaid, who shall be at the time of the issuing thereof absent from his benefice contrary to the provisions of this Act, but who shall forthwith obey such monition or order, and the profits of whose benefice shall, by reason of such obedience not be sequestered, shall nevertheless pay all costs, charges, and expenses incurred by reason of the issuing and serving such monition or order; and the proceedings thereon shall not be stayed until such payment shall be made.

56 Incumbent returning to residence on monition, but again absenting himself within 12 months, the bishop may without further monition, sequester.

If any spiritual person, not having a licence to reside out of the limits of his benefice, nor having other lawful cause of absence from the same, who after any such monition or order as aforesaid requiring him to reside, and before or after any such sequestration as aforesaid, shall in obedience to any such monition or order have begun to reside upon his benefice, shall afterwards, and before the expiration of twelve months next after the commencement of such residence, wilfully absent himself from such benefice for the space of one month together, or to be accounted at several times, it shall be lawful for the bishop, without issuing any other monition or making any order, to sequester and apply the profits of such benefice as before directed by this Act, for the

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purpose of enforcing the residence of such spiritual person according to the true intent of the original monition issued by the bishop as aforesaid; and it shall be lawful for the bishop so to proceed in like cases from time to time as often as occasion may require; provided that in each such case such spiritual person may, within one month after the 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 sequestered, or to any part thereof, as to him may seem just and proper, but nevertheless such sequestration shall be in force during such appeal.

57 Reasons for remitting penalties for non-residence of a certain amount to be transmitted to the Queen in council.

In every case in which any archbishop or bishop shall think proper, after proceeding by monition for the recovery of any penalty under this Act for non-residence of more than one-third part of the yearly value of any benefice for any non-residence exceeding six months in the year, to remit the whole or any part of any such penalty, such archbishop shall forthwith transmit to her Majesty in council, and such bishop shall forthwith transmit to the archbishop of the province to which he belongs, a statement of the nature and special circumstances of each case, and the reasons for the remission of any such penalty; and it shall thereupon be lawful for her Majesty in council, or for the archbishop, as the case may be, to allow or disallow such remission in whole or in part, in the same manner as is provided in this Act with relation to the allowance or disallowance of licences of non-residence granted in cases not herein-before expressly enumerated: Provided always, that the decision of the archbishop with respect to cases transmitted to him from a bishop shall be final.

58 Benefice continuing so sequestered one year, or being twice so sequestered within two years, to become void.

If the benefice of any spiritual person shall continue for the space of one whole year under sequestration issued under the provisions of this Act for disobedience to the bishop's monition or order requiring such spiritual person to reside on his benefice, or if such spiritual person shall, under the provisions of this Act, incur two such sequestrations in the space of two years, and shall not be relieved with respect to either of such sequestrations upon appeal, such benefice shall thereupon become void; . . .^{F20}; and [^{F21}no offer of any benefice which becomes void under this section shall be made under any provision of the Patronage (Benefices) Measure 1986 or otherwise to the person by reason of whose non-residence the benefice so became void].

Textual Amendments

F20 Words repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(2), **Sch. 5**

F21 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 1**

Modifications etc. (not altering text)

C8 S. 58 applied by Benefices Act 1898 (c. 48), s. 10

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59 Contracts for letting houses in which any spiritual persons are required by bishop to reside shall be void. Penalty for holding adverse possession, £2 for every day.

Any agreement made for the letting of the house of residence, or the buildings, gardens, orchards, or appurtenances necessary for the convenient occupation of the same, belonging to any benefice, to which house of residence any spiritual person may be required, by order of the bishop as aforesaid, to proceed and to reside therein, or which may be assigned or appointed as a residence to any curate by the bishop, shall be made in writing, and shall contain a condition for avoiding the same, upon a copy of such order, assignment, or appointment being served upon the occupier thereof, or left at the house, and otherwise shall be null and void; and a copy of every such order, assignment, or appointment shall immediately on the issuing thereof be transmitted to one of the churchwardens of the parish, or such other person as the bishop shall think fit, and be by him forthwith served on the occupier of such house of residence, or left at the same; and any person continuing to hold any such house of residence, or any such building, garden, orchard, or appurtenances, after the day on which such spiritual person shall be directed by such order to reside in such house of residence, or which shall be specified in any such order, assignment, or appointment, and after such copy shall be so served or left as aforesaid, shall forfeit the sum of [^{F22}two pounds] for every day he shall, without the permission of the bishop in writing under his hand for that purpose obtained, wilfully continue to hold any such house, building, garden, orchard, or appurtenances together with the expense of serving or leaving such order, assignment, or appointment, to be allowed by the bishop issuing the order or making such assignment or appointment; and it shall also be lawful for the spiritual person so directed to reside, or the curate to whom any such residence is assigned, to apply to any justice of the peace having jurisdiction in the place for a warrant for the taking possession thereof; and the justice to whom any such order for such possession is produced shall and he is hereby required, upon its being duly verified, to grant a warrant to some peace officer to deliver such possession, and possession may thereupon be taken of such house under such warrant at any time in the day time, by entering the same by force, if necessary, without any other proceeding by ejectment or otherwise, any law of statute to the contrary notwithstanding; provided that any person who shall have been in possession of any such house of residence or premises under a verbal agreement only, or under any agreement in which the condition aforesaid for avoiding the same shall not be inserted, and who shall be turned out of possession by virtue of this Act, shall be entitled to sue the person with whom he or she had entered into such agreement, for damages occasioned by his or her being so turned out of possession, to be recovered in any of her Majesty's superior courts at Westminster.

Textual Amendments

F22 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

Modifications etc. (not altering text)

C9 S. 59 applied (E.) (1.4.1978) by [Endowments and Glebe Measure 1976 \(No. 4\), ss. 38\(2\), 49\(2\)](#)

60 Incumbent not liable to penalty for non-residence while the tenant occupies.

Provided always that no spiritual person shall be liable to any penalty for not residing in any such house of residence during such time as such tenant shall continue to occupy

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such house of residence or other building or appurtenances necessary to the occupation of the same.

61 F23

Textual Amendments

F23 S. 61 repealed by Statute Law Revision (No. 2) Act 1874 (c. 96)

62— F24
69.

Textual Amendments

F24 Ss. 62–69, 72 repealed by Repair of Benefice Buildings Measure 1972 (No. 2), Sch. 2

70 F25

Textual Amendments

F25 s. 70 repealed (1.4.1978) by Endowments and Glebe Measure 1976 (No. 4), s. 49(2), Sch. 8

71 F26

Textual Amendments

F26 s. 71 repealed (1.4.1978) by Endowments and Glebe Measure 1976 (No. 4), s. 49(2), Sch. 8

72 F27

Textual Amendments

F27 Ss. 62–69, 72 repealed by Repair of Benefice Buildings Measure 1972 (No. 2), Sch. 2

F28 73

Textual Amendments

F28 S. 73 repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(2), Sch. 4 Pt. I; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York

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74 F29

Textual Amendments

F29 S. 74 repealed (1.4.1978) by [Endowments and Glebe Measure 1976 \(No. 4\)](#), s. 49(2), [Sch. 8](#)

75 **In case of non-resident incumbents neglecting to appoint curates, the bishop to appoint.**

If any spiritual person holding any benefice who shall not actually reside thereon nine months in each year, (unless such person shall, with the consent of the bishop from time to time signified in writing under his hand and revocable at any time, perform the ecclesiastical duties of the same, he either being resident on another benefice, of which he shall also be the incumbent, or having a legal exemption from residence on his benefice, or having a licence to reside out of the same, or to reside out of the usual house of residence belonging to the same), shall, for a period exceeding three months altogether or to be accounted at several times in the course of any one year, absent himself from his benefice, without leaving a curate or curates duly licensed or approved by the bishop to perform such ecclesiastical duties, or shall, for a period of one month after the death, resignation, or removal of any curate who shall have served his church or chapel, neglect to notify such death, resignation, or removal to the bishop, or shall, for the period of four months after the death, resignation, or removal of such curate, neglect to nominate to the bishop a proper curate, in every such case the bishop is hereby authorized to appoint and license a proper curate . . . ^{F30} to serve the church or chapel of the benefice in respect of which such neglect or default shall have occurred: Provided always, that such licence shall in every case specify whether the curate is required to reside within the parish or place, or not; and if the curate is permitted by the bishop to reside out of the parish or place, the grounds upon which the curate is so permitted to reside out of the same shall be specified in such licence; and the distance of the residence of any curate from any such church or chapel which he shall be licensed to serve shall not exceed three statute miles, except in cases of necessity, to be approved by the bishop, and specified in the licence.

Textual Amendments

F30 Words repealed except as to Channel Islands and Isle of Man by [Benefices \(Ecclesiastical Duties\) Measure 1926 \(No. 8\)](#), [Sch. 3](#)

76 **Curate to reside on benefice, under certain circumstances.**

In every case where a curate is appointed to serve in any benefice upon which the incumbent either does not reside or has not satisfied the bishop of his full purpose to reside, during four months in the year, such curate shall be required by the Bishop to reside within the parish or place in which such benefice is situate, or if no convenient residence can be procured within such parish or place, then within three statute miles of the church or chapel of the benefice in which he shall be licensed to serve, except in cases of necessity, to be approved of by the bishop, and specified in the licence, and such place of residence shall also be specified in the licence.

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77 F31

Textual Amendments

F31 S. 77 repealed except as to Channel Islands and Isle of Man by [Pluralities Acts Amendment Act 1885 \(c. 54\) s. 3](#), [Statute Law Revision \(No. 2\) Act 1890 \(c. 51\)](#) and [Benefices \(Ecclesiastical Duties\) Measure 1926 \(No. 8\) Sch. 3](#)

78 F32

Textual Amendments

F32 S. 78 repealed by [Pluralities Acts Amendment Act 1885 \(c. 54\), s. 13](#)

79 F33

Textual Amendments

F33 S. 79 repealed by [Mental Health Act 1959 \(c. 72\), Sch. 8 Pt. I](#)

80 **Bishop may enforce two services on Sundays in certain cases. Not to affect the provision of the Act 58 G.3.c. 45. s. 65.**

It shall be lawful for the bishop, in his discretion, to order that there shall be two full services, each of such services, if the bishop shall so direct, to include a sermon or lecture on every Sunday throughout the year, or any part thereof, in the church or chapel of every or any benefice within his diocese, whatever may be the annual value or the population thereof; and also in the church or chapel of every parish or chapelry, where a benefice is composed of two or more parishes or chapelries, in which there shall be a church or chapel, if the annual value of the benefice arising from that parish or chapelry shall amount to one hundred and fifty pounds, and the population of that parish or chapelry shall amount to four hundred persons^{F34} . . .

Textual Amendments

F34 Words in s. 80 repealed (5.11.1993) by [1993 c. 50, s. 1\(1\), Sch. 1 Pt. VI](#)

81 **Statement of Particulars necessary to be given and declaration to be made, on application for a licence for a curate.**

Every bishop to whom any application shall be made for any licence for a curate to serve for any person not duly residing upon his benefice shall, before he shall grant such licence, require a statement of all the particulars by this Act required to be stated by any person applying for a licence for non-residence; . . .^{F35}

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Textual Amendments

F35 Words repealed by [Clerical Subscription Act 1865 \(c. 122\)](#), **Sch.**

82 **F36**

Textual Amendments

F36 [S. 82](#) repealed by [Ecclesiastical Fees Measure 1962 \(No. 1\)](#), **Sch. Pt. I**

^{F37}**83**

Textual Amendments

F37 [S. 83](#) repealed (1.4.1978) by [Endowments and Glebe Measure 1976 \(No. 4\)](#), s. 49(2), **Sch. 8**

84 **F38**

Textual Amendments

F38 [S. 84](#) repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

85 **F39**

Textual Amendments

F39 [Ss. 85, 87–89](#) repealed except as to Channel Islands and the Isle of Man by [Benefices \(Ecclesiastical Duties\) Measure 1926 \(no. 8\)](#), Sch. 3

^{F40}**86**

Textual Amendments

F40 [S. 86](#) repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992 \(No. 1\)](#), s. 17(2), **Sch. 4 Pt. I**; Instrument dated 27.5.1992 made by the [Archbishops of Canterbury and York](#)

87— **F41**

89.

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Textual Amendments

F41 Ss. 85, 87–89 repealed except as to Channel Islands and the Isle of Man by Benefices (Ecclesiastical Duties) Measure 1926 (no. 8), Sch. 3

90 **F42**

Textual Amendments

F42 S. 90 repealed (1.4.1978) by Endowments and Glebe Measure 1976 (No. 4), s. 49(2), **Sch. 8**

91 **F43**

Textual Amendments

F43 S. 91 repealed (1.4.1978) by Endowments and Glebe Measure 1976 (No. 4), s. 49(2), **Sch. 8**

92 **F44**

Textual Amendments

F44 S. 92 repealed (1.4.1978) by Endowments and Glebe Measure 1976 (No. 4), s. 49(2), **Sch. 8**

93 Curate directed to reside in parsonage house, in case of non-residence of incumbent, may have certain portion of glebe land assigned to him by bishop.

It shall be lawful for the bishop who shall have granted any licence to any curate to serve in any benefice the incumbent whereof is not resident for four months in each year, and who shall have required such curate to reside in the house of residence belonging to the benefice, to assign to such curate such house of residence, together with the offices, stables, gardens, and appurtenances thereto belonging, or any part or parts thereof, without payment of any rent [^{F45}and also to assign any portion of glebe land adjacent to the house, and not exceeding four statute acres, at such rent as shall be fixed by the archdeacon of the archdeaconry, or by the rural dean, if any, of the deanery or district within which the benefice is situate, and one neighbouring incumbent, and approved of by the bishop, during the time of such curate's serving the cure, or during the non-residence of the incumbent of such benefice; and it shall be lawful for the bishop making any such assignment to any curate to sequester the profits of the benefice in any case in which possession of the premises so assigned shall not be given up to the curate, and until such possession shall be given, and to direct the application of the profits arising from such sequestration as is herein-before directed in the case of sequestration for non-residence, or to remit the same or any part thereof, as the bishop shall in his discretion think fit.]

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Textual Amendments

F45 Words repealed (1.4.1978) by [Endowments and Glebe Measure 1976 \(No.4\)](#), s. 49(2), [Sch. 8](#)

94

F46

Textual Amendments

F46 [S. 94](#) repealed (1.4.1978) by [Endowments and Glebe Measure 1976 \(No. 4\)](#), s. 49(2), [Sch. 8](#)

95 **Curate to quit cure upon having six weeks notice from new incumbent within six months after his admission, and in other cases incumbent, with bishop's permission, may dismiss curate on six months notice. Appeal.**

.....^{F47}, it shall be lawful for the incumbent of any benefice, whether resident or non-resident thereon, having first obtained the permission of the bishop of the diocese, to be signified by writing under his hand, to require any one or more of his curates, who after the passing of this Act shall be licensed to any curacy, to quit and give up his curacy upon six months notice thereof given to the curate, who shall thereupon quit the same according to such notice: Provided always, that any incumbent resident on his benefice, or not resident but desiring to reside on his benefice, may, within one month after refusal of such permission as aforesaid by the bishop appeal to the archbishop of the province, who shall either confirm such refusal or grant such permission as to him may seem just and proper.

Textual Amendments

F47 Words repealed by [Pastoral Measure 1968 \(No. 1\)](#), [Sch. 9](#) and [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. VII](#)

Modifications etc. (not altering text)

C10 [S. 95](#) applied by [Church of England \(Miscellaneous Provisions\) Measure 1976 \(No. 3\)](#), s. 2(2) (a)

96 **Curate to deliver up possession of house of residence, within six months, after notice or pay £2 per day.**

Every curate who shall reside in the house of residence of any benefice which shall become vacant, shall peaceably deliver up possession thereof, with the appurtenances, upon having six weeks notice from the spiritual person admitted, collated, instituted, or licensed to such benefice, provided such notice be given within six months from the time of such admission, collation, insitution, or licence; and in all other cases it shall be lawful for the incumbent of any benefice, with the permission signified in writing under the hand of the bishop of the diocese, or for such bishop, at any time upon six months notice in writing, to direct any curate to deliver up the house of residence, and the offices, stables, gardens, and appurtenances thereto belonging, [^{F48}and such portion of the glebe land as shall have been assigned to such curate,] and such curate shall thereupon peaceably deliver up the possession of the premises pursuant to such

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notice; and if any curate shall refuse to deliver up such premises in any or either of the cases aforesaid, he shall pay to the spiritual person holding the benefice the sum of [^{F49}two pounds] for every day of wrongful possession after the service of such notice.

Textual Amendments

- F48** Words repealed (1.4.1978) by [Endowments and Glebe Measure 1976 \(No.4\)](#), s. 49(2), **Sch. 8**
F49 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), **s. 10(1)**

97 **Curate not to quit curacy without three months notice to incumbent and bishop, under a penalty.**

No curate shall quit any curacy to which he shall be licensed until after three months notice of his intention given to the incumbent of the benefice and to the bishop, unless with the consent of the bishop, to be signified in writing under his hand, [^{F50}upon pain of paying to the incumbent a sum not exceeding the amount of his stipend for six months, at the discretion of the bishop, such sum to be specified in writing under the hand of the bishop; which sum may in such case be retained out of the stipend if the same or any part thereof shall remain unpaid, or, if the same cannot be retained out of the stipend, may be recovered by the spiritual person holding the benefice by action of debt.]

Textual Amendments

- F50** Words repealed (except as to Channel Islands and Isle of Man) by [Church of England \(Legal Aid and Miscellaneous Provisions\) Measure 1988 \(No. 1, SIF 21:1\)](#), **ss. 7(2)(a)**, 14(1), Sch. 3

Modifications etc. (not altering text)

- C11** S. 97 applied by [Church of England \(Miscellaneous Provisions\) Measure 1976 \(No. 3\)](#), **s. 2(2)(b)**

[^{F51}98 **Bishop may license curates employed without nomination; revoke any licence, and remove the curate, subject to appeal to the archbishop.**

It shall be lawful for the bishop to licence any curate who is or shall be actually employed by any non-resident incumbent of any benefice within his diocese, although no express nomination of such curate shall have been made to such bishop by the incumbent; and the bishop shall have power, after having given to the curate sufficient opportunity of showing reason to the contrary, to revoke, summarily and without further process, any licence granted to any curate, and to remove such curate, for any cause which shall appear to such bishop to be good and reasonable: Provided always, that any such curate may, within one month after service upon him of such revocation, appeal to the archbishop of the province, who shall confirm or annul such revocation as to him shall appear just and proper.]

Textual Amendments

- F51** S. 98 repealed (except as to Channel Islands and Isle of Man) by [Church of England \(Legal Aid and Miscellaneous Provisions\) Measure 1988 \(No. 1, SIF 21:1\)](#), **ss. 7(2)(b)**, 14(1), Sch. 3

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F52 99

Textual Amendments
F52 S. 99 repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(2), **Sch. 4 Pt.I**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York

F53 100

Textual Amendments
F53 S. 100 repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(2), **Sch. 4 Pt. I**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York

101 **F54**

Textual Amendments
F54 S. 101 repealed (1.4.1978) by Endowments and Glebe Measure 1976 (No. 4), s. 49(2), **Sch. 8**

102 Licences to curates, and revocations thereof, to be entered in the registry of the diocese.

Every bishop who shall grant or revoke any licence to any curate under this Act, shall cause a copy of such licence or revocation to be entered in the registry of the diocese; and an alphabetical list of such licences and revocations shall be made out by the registrar of each diocese, and entered in a book, and kept for the inspection of all persons, ^{F55} . . . ^{F56} . . .

Textual Amendments
F55 Words repealed by Ecclesiastical Fees Measure 1962 (No. 1), s. 8(1), **Sch. Pt. I**.
F56 Words in s. 102 repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(2), **Sch. 4 Pt.I**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York

103 **F57**

Textual Amendments
F57 S. 103 repealed by Statute Law Revision (No. 2) Act 1874 (c. 96)

Status: Point in time view as at 05/11/1993.

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104, **F58**
105.

Textual Amendments

F58 Ss. 104, 105 repealed by [Statute Law \(Repeals\) Act 1971 \(c. 52\)](#), [Sch. Pt. II](#)

106 **F59**

Textual Amendments

F59 S. 106 repealed by [Pastoral Measure 1968 \(No. 1\)](#), [Sch. 9](#) and [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. VII](#)

107 Provisions relating to bishops to apply to archbishops in their own dioceses.

All the powers, authorities, provisions, regulations, matters and things in this Act contained, in relation to bishops in their dioceses, shall extend and be construed to extend to the archbishops in the respective dioceses of which they are bishops, and also in their own peculiar jurisdictions, as fully and effectually as if the archbishops were named with the bishops in every such case.

108 Power of archbishops and bishops as to exempt or peculiar benefices, &c.

Every archbishop and bishop, within the limits of whose province or diocese respectively any benefice exempt or peculiar shall be locally situate, shall, except as herein otherwise provided, have, use, and exercise all the powers and authorities necessary for the due execution by them respectively of the provisions and purposes of this Act, and for enforcing the same with regard thereto respectively, as such archbishop and bishop respectively would have used and exercised if the same were not exempt or peculiar, but were subject in all respects to the jurisdiction of such archbishop or bishop; and where any benefice exempt or peculiar shall be locally situate within the limits of more than one province or diocese, or where the same or any of them shall be locally situate between the limits of the two provinces, or between the limits of any two or more dioceses, the archbishop or bishop of the cathedral church to whose province or diocese the parish church of the same respectively shall be nearest in local situation shall have, use, and exercise all the powers and authorities which are necessary for the due execution of the provisions of this Act, and enforcing the same with regard thereto respectively, as such archbishop or bishop could have used if the same were not exempt or peculiar, but were subject in all respects to the jurisdiction of such archbishop or bishop respectively, and the same for all the purposes of this Act shall be deemed and taken to be within the limits of the province or diocese of such archbishop or bishop; provided that the peculiars belonging to any archbishoprick or bishoprick, though locally situate in another diocese, shall continued subject to the archbishop or bishop to whom they belong, as well for the purposes of this Act as for all other purposes of ecclesiastical jurisdiction.

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109 Where jurisdiction is given to bishop, &c, all concurrent jurisdiction to cease.

In every case in which jurisdiction is given to the bishop of the diocese or to any archbishop, under the provisions of this Act, and for the purposes thereof, and the enforcing the due execution of the provisions thereof all other and concurrent jurisdiction in respect thereof shall, except as herein otherwise provided, wholly cease, and no other jurisdiction in relation to the provisions of this Act shall be used, exercised, or enforced, save and except such jurisdiction of the bishop and archbishop under this Act; anything in any Act or Acts of Parliament, or law or laws, or usage or custom, to the contrary notwithstanding.

^{F60}110

Textual Amendments
F60 S. 110 repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(2), Sch. 4 Pt. I; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York

111 The mode of appealing to the archbishop of the province.

All appeals under the provisions of this Act to any archbishop shall be in writing signed by the party appealing; and, in order to discourage frivolous appeals, no proceeding shall be had in any such appeal until the appellant shall, if required, have given security, in such form and to such amount as the archbishop shall direct, of payment to the bishop of such costs as shall be awarded by the archbishop if he shall decide against the appellant; and after such security, if required, shall have been given, the said archbishop shall forthwith, either by himself or by some commissioner or commissioners appointed under his hand from among the other bishops of his province, make or cause to be made inquiry into the matter complained of, and shall after such inquiry, and in the latter case after a report in writing from his said commissioner or commissioners, give his decision in such appeal in writing under his hand; and when he shall decide the merits of the appeal against the appellant, he shall also award and direct whether any and what amount of costs shall be paid by the appellant to the bishop respondent; and in like manner when he shall decide in favour of the appellant, he shall also award and direct whether any and what amount of costs shall be paid by the bishop respondent to the appellant.

112 Regulations respecting monitions and sequestrations.

In all cases in which proceedings under this Act are directed to be by monition and sequestration, such monition shall issue under the hand and seal of the bishop; and such monition, and any other instrument or notice issued in pursuance of the provisions of this Act, and not otherwise specially provided for, shall be served personally upon the spiritual person therein named or to whom it shall be directed, by showing the original to him and leaving with him a true copy thereof, or in case such spiritual person cannot be found, by leaving a true copy thereof at his usual or last known place of residence, and by affixing another copy thereof upon the church door of the parish in which such place of residence shall be situate, and also, in the case of such monition, by leaving another copy thereof with the officiating minister or one of the churchwardens of the said parish, and also by affixing another copy thereof on the church door of the parish

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in which the benefice of such spiritual person shall be situate; and such monition of other instrument or notice as aforesaid, shall, immediately after the service thereof, be returned into the consistorial court of such bishop, and be there filed, together with an affidavit of the time and manner in which the same shall have been served; and thereupon, in case of such monition, it shall be competent to the party monished to show cause, by affidavit or otherwise, as the case may require, why a sequestration should not issue according to the tenor of such monition; and if such spiritual person shall not, within the time assigned by such monition, show sufficient cause to the contrary, such sequestration shall issue under the seal of the consistorial court of such bishop and shall be served and returned into the registry of such court in like manner as is herein-before directed with respect to monitions issued under the provisions of this Act.

Modifications etc. (not altering text)

C12 S. 112 extended and explained by [Pluralities Acts Amendment Act 1885 \(c. 54\), s. 15](#)

113 Sequestration not to issue after monition to reside, until service of order.

Provided always, that in any case of non-residence in which a monition shall have been served upon any spiritual person under the provisions of this Act, requiring such spiritual person to reside on his benefice, no sequestration shall issue until an order requiring such spiritual person to proceed and reside upon such benefice within thirty days, as herein-before enacted, shall have been served upon him in the same manner as is herein-before directed as to the service of monitions.

114 Recovery of penalties against spiritual persons.

All penalties and forfeitures which shall be incurred under this Act by any spiritual person holding a benefice, shall and may be sued for and recovered in the court of the bishop of the diocese in which such benefice is situate, and by some person duly authorized for that purpose by such bishop by writing under his hand and seal and in no other court, and by or at the instance of no other person whatever; and the payment of every such penalty or forfeiture, together with the reasonable expense incurred in recovering the same, shall and may be enforced by monition and sequestration; and it shall and may be lawful for such bishop, by any order made for that purpose in writing under his hand, and to be registered in the registry of the diocese, which the registrar is hereby required to do, to direct that every such penalty or forfeiture so recovered as aforesaid, and which shall not have been remitted in whole or in part, or so much thereof as shall not have been remitted, shall be applied towards the augmentation or improvement of such benefice, or of the house of residence thereof, or of any of the buildings or appurtenances thereof.

115 Recovery of fees, &c.

All fees, charges, costs, and expenses incurred or directed to be paid by any spiritual person holding any benefice under the provisions of this Act, which shall remain unpaid for the period of twenty-one days after demand thereof in writing delivered to or left at the usual or last place of abode of such spiritual person, may be recovered by monition and sequestration; Provided always, that it shall be lawful for the person or persons of whom any such fees, costs, charges, and expenses shall be so demanded, to

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apply to the bishop of the diocese to order the taxation thereof, and such bishop shall thereupon order some proper person to tax and settle the same; and the certificate of allowance, by the person so to be appointed, or such fees, costs, charges, and expenses so to be taxed, shall be final.

116 Penalty on registrar for neglect.

If the registrar of any diocese shall refuse or neglect to make any entry, or to do any other matter or thing prescribed by this Act, he shall forfeit for every such refusal or neglect the sum of five pounds.

117 Recovery of penalties against lay-men or unbeneficed clergymen.

All penalties and forfeitures under this Act incurred by persons not spiritual, or by spiritual persons not holding benefices, shall be sued for and recovered by any person who will sue for the same by action in [^{F61}the High Court].

Textual Amendments

F61 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#).

118 Penalties not recoverable for more than one year.

No penalty shall be recovered against any spiritual person under the provisions of this Act, other or further than those which such spiritual person may have incurred subsequent to the first day of January in the year immediately preceding the year in which such proceedings shall be commenced.

119 Application penalties.

All penalties recovered under the provisions of this Act the application of which is not specially directed thereby, shall be paid over to the treasurer of the [^{F62}Church Commissioners], to be applied to the purposes of the said [^{F62}Commissioners].

Textual Amendments

F62 Words substituted by virtue of [Church Commissioners Measure 1947 \(No. 2\), s. 18\(2\)](#)

120 Commencement and conclusion of the year.

For all the purposes of this Act, except as herein otherwise provided, the year shall be deemed to commence on the first day of January, and to be reckoned therefrom to the thirty-first day of December, both inclusive.

121 How months to be calculated.

For all the purposes of this Act the months therein named shall be taken to be calendar months, except in any case in which any month or months are to be made up of different periods less than a month, and in every such case thirty days shall be deemed a month.

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122 Certified copy of entry of licence to be evidence.

In every case where by the provisions of this Act the copy of any licence is required to be filed or entered in the registry of the diocese, a copy thereof, certified by the registrar, shall be admissible as evidence in all courts and places whatever.

123 Statements how to be verified.

When authority is given by this Act to any archbishop or bishop to require any statement or facts to be verified by evidence, or to inquire or to cause inquiry to be made into any facts, such archbishop or bishop may require any such statement or any of such facts to be verified in such manner as the said archbishop or bishop shall see fit; and when any oath, affidavit, or affirmation or solemn declaration is or may be by or in pursuance of the provisions of this Act required to be made, such oath, affidavit, or affirmation or solemn declaration shall and may be made either before such archbishop or bishop, or the commissioner or commissioners, or one of them, or such archbishop or bishop respectively, or before some ecclesiastical judge or his surrogate, or before a justice of the peace, or before a . . . ^{F63} master extraordinary in Chancery; who are hereby authorised and empowered in all and every of the cases aforesaid to administer such oath, affidavit, and affirmation, or to take such declaration, as the case may be.

Textual Amendments

F63 Words repealed by [Statute Law Revision \(No. 2\) Act 1874 \(c. 96\)](#)

124 Definition of the terms “cathedral preferment,” and “benefice”

In all cases where the term “cathedral preferment” is used in this Act, it shall be construed to comprehend (unless it shall otherwise appear from the context) every deanery, archdeaconry, prebend, canonry, office of minor canon, priest vicar, or vicar choral, having any prebend or endowment belonging thereto, or belonging to any body corporate consisting of persons holding any such office, and also every precentorship, treasurership, sub-deanery, chancellorship of the church, and other dignity and office in any cathedral or collegiate church, and every mastership, wardenship, and fellowship in any collegiate church; and in all cases where the term “benefice” is used in this Act, the said term shall be understood and taken to mean benefice with cure of souls, and no other (unless it shall otherwise appear from the context), and therein to comprehend all parishes, perpetual curacies, donatives, endowed public chapels, parochial chapelries, and chapelries or districts belonging or reputed to belong, or annexed or reputed to be annexed, to any church or chapel, anything in any other Act to the contrary notwithstanding.

125 Who to be considered patron.

In every case in which the consent of, or the execution of any deed or deeds, instrument or instruments, by the patron of any cathedral preferment, or of any benefice, sinecure rectory, or vicarage or the owner or impropiator of any lands, tithes, tenements, or hereditaments, is required for carrying into effect any of the purposes of this Act, and also in every case in which it may be necessary to give any notice to any such patron for any of the said purposes, the consent of execution by or notice to the patron or person entitled to make donation or present or nominate to such cathedral preferment, benefice, sinecure rectory, or vicarage, in case the same were then vacant, or the person

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or persons who shall be in the actual possession, receipt, or perception of the rents, proceeds, or profits of such lands, tithes, tenements, or hereditaments for an estate or interest not less than an estate for life, shall respectively be sufficient.

126 How consent of patron to be testified, &c. where patronage is in the crown.

In any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this Act, or in which any notice shall be required by this Act to be given to the patron of any benefice, and the patronage of such benefice shall be in the crown, the consent of the crown to the exercise of such power shall be testified and such notice shall be given respectively in the manner herein-after mentioned; (that is to say), if such benefice shall be above the yearly value of twenty pounds in the Queen's books, the instrument by which the power shall be exercised shall be executed by and any such notice shall be given to the lord high treasurer or first lord commissioner of the Treasury for the time being; and if such benefice shall not exceed the yearly value of twenty pounds in the Queen's books, such instrument shall be executed by and any such notice shall be given to the lord high chancellor, lord keeper or lords commissioners of the great seal for the time being; and if such benefice shall be within the patronage of the crown in right of the duchy of Lancaster, such instrument shall be executed by and any such notice shall be given to the chancellor of the said duchy for the time being; and the execution of such instrument by and any such notice given to such person or persons shall be deemed and taken for the purposes of this Act to be an execution by and a sufficient notice to the patron of the benefice.

127 How where patron is an incapacitated person.

In any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this Act, and the patron of such benefice shall be a minor, idiot, [^{F64}person of unsound mind], ^{F65} . . . it shall be lawful for the guardian or guardians, committee or committees, ^{F65} . . . to execute the instrument by which such power shall be exercised in testimony of the consent of such patron; and such execution shall for the purposes of this Act be deemed and taken to be an execution by the patron of the benefice.

Textual Amendments

F64 Words substituted by virtue of [Mental Treatment Act 1930 \(c. 23\)](#), [s. 20](#).

F65 Words in [s. 127](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. VI](#)

Modifications etc. (not altering text)

C13 [S. 127](#) excluded by [Mental Health Act 1959 \(c. 72\)](#), [s. 121](#), [Sch. 5](#) which Act repealed (with saving) by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [ss. 131\(1\), 134, 148](#), [Sch. 5 para. 2](#), [Sch. 6](#)

128 How where patronage is attached to the duchy of Cornwall.

In any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this Act, or in which any notice shall be required by this Act to be given to the patron of any benefice, and the advowson and right of patronage of such benefice shall be part of the possessions of the duchy of Cornwall, the consent of the patron of such benefice to the exercise of such power shall be testified and such notice shall be given respectively in the manner herein-after mentioned; (that is to

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say,) the instrument by which the power shall be exercised shall be executed by and any such notice shall be given to the duke of Cornwall for the time being, if of full age, but if such benefice shall be within the patronage of the crown in right of the duchy of Cornwall, such instrument shall be executed by and any such notice shall be given to the same person or persons who is or are by this Act authorised to testify the consent of the crown to the exercise of any power given by this Act in respect of any benefice in the patronage of the crown; and the execution of such instrument by and any such notice given to such person or persons shall be deemed and taken for the purposes of this Act to be an execution by and a sufficient notice to the patron of the benefice.

^{F66}129

Textual Amendments

F66 S. 129 repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No.1), s. 17(2), **Sch. 4 Pt. I**; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York

130 Population how to be computed.

Whenever the population of any place shall be required by this Act to be ascertained, the same shall be taken from the latest returns of population made under any Act of Parliament for that purpose at the time when the question shall arise, if such returns shall apply to the place respecting which the question shall be, but if such place shall only form part of a parish or district named in such returns, then such returns shall be taken to represent truly the population of the parish or district named therein, and from them the population of the place required shall be computed, according to the best evidence of which the subject shall be capable.

131 ^{F67}

Textual Amendments

F67 S. 131 repealed by Ecclesiastical Fees Measure 1962 (No. 1), **Sch. Pt. II**

132 Act not to affect powers of bishops.

Nothing in this Act contained shall be deemed, construed, or taken to derogate from, diminish, prejudice, alter, or affect, otherwise than is expressly provided, any powers, authorities, rights or jurisdiction already vested in or belonging to any archbishop or bishop under or by virtue of any statute, canon, usage, or otherwise howsoever.

133 Act not to extend to Ireland.

No provision in this Act contained shall extend or be construed to extend to Ireland.

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F68F68 FIRST SCHEDULE

Textual Amendments

F68 Sch. 1 repealed by [Statue Law \(Repeals\) Act 1971 \(c. 52\)](#)

.....
F68

F69F69 SECOND SCHEDULE

Textual Amendments

F69 Sch. 2 repealed (1.4.1978) by [Endowments and Glebe Measure 1976 \(No.4\), s. 49\(2\)](#), **Sch. 8**

.....
F69

Status:

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