



# Clergy Discipline Measure 2003

2003 No. 3

## *Penalties*

### **24 Types of penalty**

- (1) One or more of the following penalties may be imposed on a respondent upon a finding that he has committed any misconduct, namely—
  - (a) prohibition for life, that is to say prohibition without limit of time from exercising any of the functions of his Orders;
  - (b) limited prohibition, that is to say prohibition for a specific time from exercising any of the functions of his Orders;
  - (c) removal from office, that is to say, removal from any preferment which he then holds;
  - (d) in the case of a minister licensed to serve in a diocese by the bishop thereof, revocation of the licence;
  - (e) injunction, that is to say, an order to do or to refrain from doing a specified act;
  - (f) rebuke.
- (2) No penalty of removal from office imposed on an archbishop or bishop or on any person holding any preferment the right to appoint to which is vested in Her Majesty (not being a parochial benefice) shall have effect unless and until Her Majesty by Order in Council confirms the penalty.

### **25 Conditional discharge**

- (1) Where, upon a finding that the respondent has committed any misconduct, the disciplinary tribunal or Vicar-General's court, as the case may be, is of opinion, having regard to the circumstances including the nature of the misconduct and the character of the respondent, that it is inexpedient to impose a penalty it may make an order discharging him subject to the condition that he commits no misconduct during such period not exceeding two years from the date of the order as may be specified in the order.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Before making an order under subsection (1) above the tribunal or court shall explain to the respondent in ordinary language that if he commits further misconduct during the period specified in the order a penalty may be imposed for the original misconduct.
- (3) Where, under subsection (4) below, a penalty is imposed on a person conditionally discharged under subsection (1) above for the misconduct in respect of which the order for conditional discharge was made, that order shall cease to have effect.
- (4) If a person in whose case an order has been made under subsection (1) above is found, in disciplinary proceedings under this Measure, to have committed misconduct during the period specified in the order, the disciplinary tribunal or the Vicar-General's court, as the case may be, may deal with him for the misconduct for which the order was made in any manner in which it could deal with him if it had just found that he had committed that misconduct.

## **26 Removal of prohibition for life and deposition**

- (1) Where by virtue of anything done under this Measure or the 1963 Measure a priest or deacon is prohibited for life or deposed he may make an application to the archbishop concerned for the prohibition or deposition to be nullified on the grounds—
  - (a) that new evidence has come to light affecting the facts on which the prohibition or deposition was based; or
  - (b) that the proper legal procedure leading to the prohibition or deposition was not followed.
- (2) If the archbishop, on an application made in accordance with subsection (1) above, considers that the prohibition or deposition was not justified he may, after consultation with the Dean of the Arches and Auditor, declare that the prohibition or deposition be nullified, whereupon it shall be treated for all purposes in law as never having been imposed.
- (3) This section shall apply to archbishops and bishops who are prohibited for life or deposed as it applies to priests and deacons who are prohibited for life or deposed, with the following adaptations—
  - (a) in the case of an archbishop, the references to the archbishop concerned shall be read as references to the Dean of the Arches and Auditor and the reference to consultation with him shall be omitted;
  - (b) in the case of a bishop, the references to the archbishop concerned shall be read as references to the archbishop of the other province.

## **27 Removal of limited prohibition**

Where by virtue of anything done under this Measure or the 1963 Measure an archbishop, bishop, priest or deacon is prohibited from exercising functions for a specific time he and the archbishop or bishop of the province or diocese concerned (or his successor in office) acting jointly may make an application to the Dean of the Arches and Auditor sitting with the two Vicars-General for the removal of the prohibition; and on receiving such an application they may make an order removing the prohibition, whereupon he shall be eligible for any preferment.

**28 Restoration on pardon**

Where by virtue of anything done under this Measure an archbishop, bishop, priest or deacon is prohibited from exercising functions or removed from office his incapacities shall cease if he receives a free pardon from the Crown and he shall be restored to any preferment he previously held if it has not in the meantime been filled.

**29 Disobedience to penalty etc.**

Any person (including a person deposed from Holy Orders under the 1963 Measure) who performs in the Church of England any function which, under a penalty imposed on him under this Measure or a censure imposed on him under the 1963 Measure, he is not permitted to perform commits an act of misconduct under this Measure and, in the case of a person deposed from Holy Orders, disciplinary proceedings under this Measure may be instituted against him in respect of the misconduct as if he had not been deposed.