



# ECCLESIASTICAL JURISDICTION (AMENDMENT) MEASURE 1974 (No. 2)

1974 No. 2

A measure passed by The General Synod of the Church of England to amend the Ecclesiastical Jurisdiction Measure 1963. [9th July 1974]

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

- C1 Measure extended by [Pastoral Measure 1983 \(No. 1, SIF 21:4\)](#), s. 20(9)
- C2 Measure applied (1.7.2012) by [Mission and Pastoral Measure 2011 \(No. 3\)](#), ss. 34(9), 112(3) (with ss. 100, 105(4), 107, 108(6), Schs. 8); S.I. 2012/1, art. 2

**1 Deprivation of priest, etc., following certain proceedings in secular courts.**

For sections 55 and 56 of the <sup>M1</sup>Ecclesiastical Jurisdiction Measure 1963 there shall be substituted the following sections:—

**“55 Deprivation of priest or deacon following certain proceedings in secular courts.**

- (1) Where a priest or deacon—
- (a) is convicted of an offence and a sentence of imprisonment (whether suspended or not) is passed on him; or
  - (b) has a decree of divorce or judicial separation granted against him and the court granting the decree held that the fact on which his wife was entitled to rely was that mentioned in paragraph (a) (adultery), paragraph (b) (behaviour in such a way that the petitioner cannot reasonably be expected to live with the respondent) or paragraph (c) (desertion) of section 1(2) of the Matrimonial Causes Act 1973 and, in the case of divorce, the decree has been made absolute., or
  - (c) is found to have committed adultery in a matrimonial cause; or

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- (d) has an affiliation order made against him; or
- (e) has a matrimonial order made against him under section 2 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960; or
- (f) has an order under section 27 of the Matrimonial Causes Act 1973 (wilful neglect by party to marriage to maintain other party or child of the family) made against him,

he shall be liable without further trial to deprivation and disqualification, that is to say, deprivation as from the date on which the sentence, decree, finding or order becomes conclusive of any preferment then held by him and, whether or not he then holds preferment but subject to section 49(5) of this Measure, disqualified from holding preferment.

- (2) Where a priest or deacon is liable to deprivation and disqualification by virtue of subsection (1) of this section, then, within twenty-eight days after the date on which the sentence, decree, finding or order, as the case may be, becomes conclusive, the bishop of the relevant diocese shall refer the case to the archbishop of the relevant province with his own recommendation as to the action to be taken and send him a copy of any representations which the priest or deacon may have made to him in writing.
- (3) The archbishop to whom a case is referred under subsection (2) of this section shall, within two months after the date mentioned in that subsection, make a declaration of deprivation and disqualification in relation to the priest or deacon concerned unless on consideration of all the circumstances, including the recommendation of the bishop of the relevant diocese and any representations a copy of which has been sent to him under that subsection, he determines that no such declaration shall be made.

Where the archbishop so determines he shall inform the priest or deacon concerned and the bishop of the relevant diocese.

- (4) Where a declaration is to be made under this section, it shall be made by the archbishop or, if the archbishop so directs, by the bishop of the relevant diocese as his commissary, and before making it the archbishop or bishop shall require the registrar of his province or the registrar of his diocese, as the case may be, to give (if it is practicable to do so) not less than fourteen days' notice in writing to the priest or deacon concerned of the time and place at which the declaration will be made, and if the priest or deacon appears at that time and place he shall be entitled to be present when the declaration is made.
- (5) When making a declaration under this section the archbishop or bishop shall be attended by the registrar of his province or the registrar of his diocese, as the case may be.

The declaration shall be reduced to writing and a copy thereof shall be filed in the registry of the relevant diocese.

- (6) The functions exercisable under this section by an archbishop shall, during the absence abroad or incapacity through illness of the archbishop or a vacancy in the see, be exercised by the other archbishop.
- (7) In this section— “affiliation order” means an order under section 44 of the National Assistance Act 1948, section 26 of the Children Act 1948, section 4

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of the Affiliation Proceedings Act 1957 or section 24 of the Ministry of Social Security Act 1966; “relevant diocese” means—

- (a) the diocese in which the priest or deacon, in relation to whom a declaration may be made under this section, holds preferment at the date on which the sentence, decree, finding or order which justifies the making of the declaration becomes conclusive; or
- (b) if at that date he is not holding preferment, but is residing, in a diocese, the diocese in which he is residing at that date ; or
- (c) if at that date he neither holds preferment nor resides in a diocese, the diocese in which he last held preferment before that date;

“suspended sentence” means a sentence to which an order under section 39(1) of the Criminal Justice Act 1967 relates.

### **56 Deprivation of bishop or archbishop following certain proceedings in secular courts.**

- (1) If a bishop or archbishop is convicted of an offence and such a sentence as is mentioned in paragraph (a) of section 55(1) of this Measure is passed on him or such a decree, finding or order as is mentioned in that subsection is granted or made against a bishop or archbishop, the bishop or archbishop shall be liable to deprivation and disqualification within the meaning of that section, and, within two months after the sentence, decree, finding or order, as the case may be, becomes conclusive, a declaration of deprivation and disqualification shall be made in relation to the bishop or archbishop—

- (a) in the case of a bishop, by the archbishop of the relevant province; and
- (b) in the case of an archbishop, by the archbishop of the other province,

unless on consideration of all the circumstances, including any representations which the bishop or archbishop may have made to him in writing, the archbishop determines that no such declaration shall be made.

Where the archbishop so determines he shall inform the bishop or archbishop concerned.

- (2) Before making a declaration under this section the archbishop shall require the registrar of his province to give (if it is practicable to do so) not less than fourteen days’ notice in writing to the bishop or archbishop concerned of the time and place at which the declaration will be made, and if the bishop or archbishop appears at that time and place he shall be entitled to be present when the declaration is made.

- (3) When making a declaration under this section the archbishop shall be attended by the registrar of his province.

The declaration shall be reduced to writing and a copy thereof shall be filed in the registry of that province.

- (4) The functions exercisable under this section by the archbishop of the relevant province shall, during the absence abroad or incapacity through illness of the archbishop or a vacancy in the see, be exercisable by the other archbishop.

- (5) In this section “bishop” means any diocesan bishop, any suffragan bishop commissioned by a diocesan bishop and any other bishop.”

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

- C3** The text of ss. 1, 2(1)(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M1** 1963 No. 1.

**2 Minor amendments, repeal and transitional provisions.**

- (1) At the end of section 57 of the said Measure of 1963 (consequences of declarations under sections 55 and 56) there shall be inserted the following paragraph:— “ Section 49(5) of this Measure shall have effect for the purposes of section 55 of this Measure with the substitution, for the reference to the bishop of the diocese in which the proceedings were instituted, of a reference to the bishop of the relevant diocese within the meaning of the said section 55. ”
- (2) Section 79 of the said Measure of 1963 (provisions as to date on which conviction, etc. becomes conclusive and as to conclusiveness of certificate of conviction, etc.) shall be amended as follows:—
  - (a) in subsection (1), for the words “order or finding”, wherever occurring, there shall be substituted the words “ sentence, decree, finding or order ”;
  - (b) in subsection (1)(c), after the word “conviction” wherever occurring , there shall be inserted the word “ decree ”; and
  - (c) in subsections (2) and (3), for the words “order or finding”, wherever occurring, there shall be substituted the words “ decree, finding or order ”.
- (3) Schedule 3 to the said Measure of 1963 (deprivation consequent upon the making of certain orders) is hereby repealed.
- (4) Subject to the following subsection, sections 55 and 56 of the said Measure of 1963 shall, in their application to a person against whom a decree of divorce or judicial separation was granted, or an order made under section 6 of the <sup>M2</sup>Matrimonial Proceedings and Property Act 1970, before the coming into force of the <sup>M3</sup>Matrimonial Causes Act 1973, have effect as if for the reference in subsection (1) of the said section 55 to section 1(2) of the said Act of 1973 and to section 27 thereof there were substituted a reference to section 2(1) of the <sup>M4</sup>Divorce Reform Act 1969 and to the said section 6 respectively.
- (5) Where immediately before the commencement of this Measure any person was liable to have a declaration of deprivation and disqualification made against him under section 55 or 56 of the said Measure of 1963, then, notwithstanding any amendment or repeal made by this Measure, the said Measure of 1963 and any rules made for the purposes of that Measure shall continue to have effect in relation to that person as they had effect immediately before the said commencement.

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

- C4** The text of ss. 1, 2(1)(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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**Marginal Citations**

- M2** 1970 c. 45.
- M3** 1973 c. 18.
- M4** 1969 c. 55.

**3 Citation and extent.**

- (1) This Measure may be cited as the Ecclesiastical Jurisdiction (Amendment) Measure 1974, and the <sup>M5</sup>Ecclesiastical Jurisdiction Measure 1963 and this Measure may be cited together as the Ecclesiastical Jurisdiction Measures 1963 and 1974.
- (2) This Measure shall extend to the provinces of Canterbury and York, except the Channel Islands and the Isle of Man but may by Act of Tynwald be extended to the Isle of Man, with such exceptions, adaptations and modifications as may be specified in that or any subsequent Act.

**Marginal Citations**

- M5** 1963 No. 1.

**Changes to legislation:**

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