



# Ecclesiastical Judges and Legal Officers Measure 1976

1976 No. 2

A measure passed by the General Synod of the Church of England to regulate the age of retirement from the office of judge of an ecclesiastical court; to make provision for limiting the number of chancellorships to be held by one person; to make fresh provision with respect to the other legal officers of the Church of England; and for purposes connected with the matters aforesaid. [25th March 1976]

## Commencement Information

II Measure wholly in force at 25.04.1976, see s. 9(2).

## 1 Retiring age for judges of ecclesiastical courts.

- (1) In subsection (4) of section 2 of the <sup>M1</sup>Ecclesiastical Jurisdiction Measure 1963 (appointment of person to be chancellor of diocese to be without limit of time subject to provisions as to resignation or removal from office), for the words “without limit of time” there shall be substituted the words “for the period beginning with the date of appointment and ending on the date on which he attains the age of seventy-five years”; and at the end of that subsection there shall be inserted the following paragraph:—
- “(c) may continue to act as chancellor for the purpose of any proceedings or cause of faculty in the consistory court of the diocese during the course of which he attains the age of seventy-five years as if the date of the conclusion in that court of those proceedings or that cause, as the case may be, were the date on which he attains that age”.
- (2) In subsection (5) of section 3 of the said Measure of 1963 (appointment of person to be judge of the Archdeaconry Court of Canterbury or the Chancery Court of York to be without limit of time subject to provisions as to resignation or removal from office), for the words “without limit of time” there shall be substituted the words “for a period beginning with the date of the appointment and ending with the date on which that

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person attains the age of seventy-five years ”; and at the end of that subsection there shall be inserted the following paragraph:—

“(c) any judge of either of the said Courts may continue to act as a judge thereof for the purpose of any proceedings in that Court during the course of which he attains the age of seventy-five years as if the date of the conclusion in that Court of those proceedings were the date on which he attains that age”.

- (3) The amendments made by subsection (1) above shall not have effect in relation to any person who holds the office of chancellor of a diocese, or, in the case of the diocese of Canterbury, commissary general, at the commencement of this Measure, and the amendments made by subsection (2) above shall not have effect in relation to any person who holds the office of judge of either of the Courts mentioned in that subsection at the said commencement.

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

- C1** The text of ss. 1 and 2 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 Number of chancellorships to be held by one person may be limited.**

After section 2 of the <sup>M2</sup>Ecclesiastical Jurisdiction Measure 1963 there shall be inserted the following section:—

### **“2A Number of chancellorships to be held by one person may be limited.**

- (1) Regulations made by the House of Bishops of the General Synod may make provision with respect to the maximum number of chancellorships of dioceses which any one person may hold.
- (2) Nothing in any regulation made under this section shall be taken as prohibiting any person who at the date on which the regulation comes into force holds more than the maximum number of chancellorships prescribed by the regulation from continuing to hold such offices.
- (3) Regulations made under this section shall be laid before the General Synod and shall not come into operation until they have been approved by the General Synod.
- (4) The Statutory Instruments Act 1946 shall apply to any regulation approved under subsection (3) of this section as if they were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such regulations should be subject to annulment in pursuance of a resolution of either House of Parliament.”

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

- C2** The text of ss. 1 and 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M2** 1963 No. 1.

**3 Office of registrar of a province.**

- (1) For each of the provinces there shall be an office the holder of which shall be known as the registrar of the province of Canterbury or the registrar of the province of York, as the case may be, and the holder of that office shall also be the legal adviser to the archbishop of the province.
- (2) The registrar of a province shall perform the functions conferred or imposed by or under any enactment or Canon on such registrar or on the registrar of the provincial court and the functions previously performed by the archbishop's legal secretary.
- (3) The registrar of a province shall be appointed by the archbishop of the province, . . . <sup>F1</sup>
- (4) The office of registrar of a province may be held by two persons jointly, but either of those persons may perform any of the functions mentioned in subsection (2) above.
- [<sup>F2</sup>(4A) The registrar of a province may, with the consent of the archbishop of the province, appoint a fit and proper person to act as deputy registrar of the province for such period and for such purpose as may be specified in the instrument of appointment; and during that period and for that purpose a person so appointed shall have all the powers and duties of the registrar.
- (4B) Where the registrar of a province ceases to hold that office, a person appointed to act as deputy registrar under subsection (4A) above shall cease to hold that office when a new registrar is appointed.
- (4C) If, in the opinion of the archbishop of the province concerned, the registrar of the province is for any reason unable or unwilling to perform the duties of a registrar or it would be inappropriate for him to perform those duties and there is no person appointed to act as deputy registrar under subsection (4A) above able to perform those duties, the archbishop may request the registrar of the other province to appoint a fit and proper person to perform those duties for such period as the instrument of appointment may specify; and during that period a person so appointed shall have all the powers and duties of the registrar of the first-mentioned province.]
- [<sup>F3</sup>(5) Where any person to be appointed to such office [<sup>F4</sup>or to act as deputy registrar] is to perform such of the functions mentioned in subsection (2) above as consist of functions conferred or imposed on the registrars of the General Synod or either of them or functions relating to or connected with the election or choice of members of the Convocation of Canterbury or York or the House of Laity of the General Synod, the archbishop by whom that person is to be appointed shall before making the appointment consult the standing committee of the General Synod.]

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- F1** Words repealed by Church of England (Miscellaneous Provisions) Measure 1983 (No. 2, SIF 21:3), s. 6(1)
- F2** S. 3(4A)-(4C) inserted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 9, **Sch. 5 para. 2(a)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.
- F3** S. 3(5) inserted by Church of England (Miscellaneous Provisions) Measure 1983 (No. 2, SIF 21:3), s. 6(2)
- F4** Words in s. 3(5) inserted (1.3.1993) by Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (No. 1, SIF 21:8), s. 9, **Sch. 5 para. 2(b)** (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.

**4 Office of registrar of a diocese.**

- (1) For every diocese there shall be an office the holder of which shall be known as the registrar of the diocese, and the holder of that office shall also be the legal adviser to the bishop of the diocese.
- (2) The registrar of a diocese shall perform the functions conferred or imposed by or under any enactment or Canon on such registrar or on the registrar of the consistory court of the diocese and the functions previously performed by the bishop's legal secretary.
- (3) The registrar of a diocese shall be appointed by the bishop of the diocese, but before making any such appointment the bishop shall consult the bishop's council and standing committee of the diocesan synod.
- (4) The office of registrar of a diocese may be held by two persons jointly, but either of those persons may perform any of the functions mentioned in subsection (2) above.
- [<sup>F5</sup>(5A) The registrar of a diocese may, with the consent of the bishop of the diocese, appoint a fit and proper person to act as deputy registrar of the diocese for such period and for such purpose as may be specified in the instrument of appointment; and during that period and for that purpose a person so appointed shall have all the powers and duties of the registrar.
- (5B) Where the registrar of a diocese ceases to hold that office, a person appointed to act as deputy registrar under subsection (5A) above shall cease to hold that office when a new registrar is appointed.
- (5C) If, in the opinion of the bishop of the diocese concerned, the registrar of the diocese is for any reason unable or unlikely to perform the duties of a registrar or it would be inappropriate for him to perform those duties and there is no person appointed to act as deputy registrar under subsection (5A) above able to perform those duties, the bishop may request the registrar of the province within which the diocese is situated to appoint a fit and proper person to perform those duties for such period as the instrument of appointment may specify; and during that period a person so appointed shall have all the powers and duties of the registrar of the diocese.
- (5D) If the registrar of the diocese concerned is also the registrar of the province within which the diocese is situated the reference in subsection (5C) above to the registrar of the province within which the diocese is situated shall be construed as a reference to the registrar of the other province.]

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### Textual Amendments

- F5** S. 4(5A)-(5D) inserted (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991](#) (No. 1, SIF 21:8), s. 9, **Sch. 5 para.3** (with s. 31(6)); Instrument dated 16.2.1993 made by the [Archbishops of Canterbury and York](#).

## **5 Provisions with respect to number of registrarships to be held by one person, vacation of office, etc.**

- (1) Regulations made by the House of Bishops of the General Synod may make provision with respect to the maximum number of registrarships, whether of a province or of a diocese, which any one person may hold.
- (2) Nothing in any regulation made under subsection (1) above shall be taken as prohibiting any person who at the date on which the regulation comes into force holds more than the maximum number of registrarships prescribed by the regulation from continuing to hold such offices.
- (3) A person holding the office of registrar of a province or registrar of a diocese shall vacate that office on the date on which he attains the age of seventy years or, subject to subsection (4) below, such earlier age as may be prescribed by regulations made by the House of Bishops of the General Synod.
- (4) No regulation made under subsection (3) above shall apply to any person who at the date on which the regulation comes into force is the holder of an office to which the regulation relates.
- (5) The registrar of a province or of a diocese may resign his office by instrument in writing under his hand addressed to, and served on, the archbishop of the province or the bishop of the diocese, as the case may be, and the instrument shall specify the date, being a date not less than twelve months after the date of service of the instrument, on which the resignation is to take effect.
- (6) Subject to subsection (7) below, the appointment of a person as registrar of a province or of a diocese may be terminated by an instrument in writing under the hand of the archbishop of the province or the bishop of the diocese, as the case may be, addressed to, and served on, that person, and the instrument shall specify the date, being a date not less than twelve months after the date of service of the instrument, on which the appointment is to terminate.
- (7) The power conferred on an archbishop by subsection (6) above shall be exercisable only with the consent of the other archbishop, and the power thereby conferred on the bishop of a diocese shall be exercisable only with the consent of the archbishop of the province.

## **6 Transitional provisions supplementary to ss.3 to 5.**

- (1) Nothing in sections 3 to 5 of this Measure shall affect the tenure of office or any right of any person who at the commencement of this Measure holds the office of registrar of a province or registrar of a diocese.
- (2) Subject to subsection (3) below, no appointment to the office of registrar of a province shall be made under the said section 3, and no appointment to the office of registrar

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of a diocese shall be made under the said section 4, as long as the person who at the said commencement is the holder of that office continues to hold it.

- (3) Where at the said commencement one person holds the office of registrar of a diocese and another the office of legal secretary to the bishop of that diocese, then, if the last mentioned office becomes vacant thereafter before that first mentioned, either the person who at the date of the occurrence of the vacancy is, and at the said commencement was, the registrar of the diocese shall be appointed to that office under the said section 4 or another person shall be appointed by the bishop of that diocese to act as his legal secretary until the office of registrar of that diocese becomes vacant.
- (4) On the making of an appointment under the said section 3 to the office of registrar of a province or under the said section 4 to the office of registrar of a diocese, the office of legal secretary to the archbishop of that province or, as the case may be, of legal secretary to the bishop of that diocese shall be abolished.

## **7 Abolition of offices of archdeacon's official principal and archdeacon's registrar.**

- (1) No appointment to the office of official principal of an archdeacon or to the office of registrar of an archdeacon shall be made after the commencement of this Measure.
- (2) Where after the said commencement either of the offices mentioned in subsection (1) above becomes vacant, the duties previously performed by the holder of that office shall be performed, in the case of the office of official principal, by the chancellor, and, in the case of the office of registrar, by the registrar, of the diocese in which the archdeaconry in question is situated.
- (3) Subsection (2) above shall have effect in relation to the diocese of Canterbury with the substitution, for the reference to the chancellor, of a reference to the commissary general.

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

- C3** [S. 7\(2\)](#) explained (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992 \(No. 1\)](#), [s.13](#); [Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York](#).

## **8 Provisions with respect to regulations under s. 5.**

- (1) Regulations made by the House of Bishops under section 5 of this Measure shall be laid before the General Synod, and shall not come into operation until they have been approved by the General Synod.
- (2) The <sup>M3</sup>Statutory Instruments Act 1946 shall apply to any regulations approved by the General Synod under subsection (1) above as if they were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such regulations should be subject to annulment in pursuance of a resolution of either House of Parliament.

### **Marginal Citations**

- M3** [1946 c. 36](#).

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## **9 Citation, commencement and extent.**

- (1) This Measure may be cited as the Ecclesiastical Judges and Legal Officers Measure 1976.
- (2) This Measure shall come into operation at the expiration of a period of one month beginning with the day on which it is passed.
- (3) This Measure shall extend to the provinces of Canterbury and York except the Channel Islands and the Isle of Man, but if an Act of Tynwald so provides, sections 1 and 2 of this Measure shall extend to the Isle of Man subject to such exceptions and modifications, if any, as may be specified in that or any subsequent Act of Tynwald.

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