



Church of England (Miscellaneous Provisions) Measure 1976

1976 No. 3

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A Measure passed by the General Synod of the Church of England to enable provision to be made by Canon with respect to certain declarations made and subscribed and other matters required on ordination and admission to office in the Church of England and to repeal the enactments relating to those matters; to enable provision to be made by Canon with respect to licensing of assistant curates for fixed terms; to replace section 85 of the Pastoral Measure 1968; to dispense with periodical episcopal visitations of cathedrals; to amend section 1 of the Benefices (Sequestrations) Measure 1933; to amend the law relating to the burial of certain persons in parish burial grounds; to repeal section 13 of the Burnley Rectory Act 1890; and for purposes connected with the matters aforesaid. [15th November 1976]

Commencement Information

II Measure wholly in force at 15.12.1976 see s. 8(3).

1 Provision by Canon with respect to declarations and other matters required on ordination and admission to office. U.K.

- (1) Subject to subsection (2) below, it shall be lawful for the General Synod to make provision by Canon for dispensing with or modifying any formal procedure or document required on the occasion of ordination or admission to any office in the Church of England, and in particular for dispensing with the making of the declarations heretofore prescribed by sections 2 and 3 of the ^{M1}Clerical Subscription Act 1865 (declarations known as “the declaration against simony” and “the stipendiary curate’s declaration”), the reading of the form called Si Quis and the certification thereof, the exhibiting of Letters Testimonial, and the issue of deeds of institution and Letters Mandatory and mandates for induction.

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- (2) Subsection (1) above shall not apply in relation to any declaration of assent to the doctrine of the Church of England which by any Canon made in pursuance of section 2 of the ^{M2}Church of England (Worship and Doctrine) Measure 1974 any person is required to make on any occasion.
- (3) Section 3 of the Submission of the ^{M3}Clergy Act 1533 (which provides that no Canons shall be contrary to the Royal Prerogative or the customs, laws or statutes of this realm) shall not apply to any rule of ecclesiastical law relating to any matter for which provision may be made by Canon in pursuance of this section.
- (4) In this section “ordination” includes consecration as a bishop; and “admission” to an office includes every step in the procedure by which a person comes into full possession of the office.
- (5) The power to make Canons in pursuance of this section shall be exercisable before the day on which this Measure comes into operation, but no such Canon shall come into operation before that day.
- ^{X1}(6) If a Canon made in pursuance of this section dispenses with the making of the declarations mentioned in subsection (1) above, then, on the day on which that Canon comes into operation the enactments specified in Part I of the Schedule to this Measure shall be repealed to the extent specified in column 3 of that Schedule.

Editorial Information

- X1** The text of ss. 1(6), 4, 5, and Sch. Pts. I, II 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** 1865 c. 122.
M2 1974 No. 2.
M3 1533 c. 19.

2 Provision by Canon with respect to licensing of assistant curate for fixed term. **U.K.**

- (1) It shall be lawful for the General Synod to make provision by Canon for empowering the bishop of a diocese—
 - (a) to grant a licence to an assistant curate to minister in any parish or conventional district in his diocese for such term of years as may be specified in the licence; and
 - (b) to revoke such a licence summarily and without further process before the expiration of the term so specified for such cause and subject to such conditions as the Canon may provide.
- (2) Where in pursuance of a Canon made under subsection (1) above a licence is granted to an assistant curate to minister in a parish or conventional district for a term of years specified in the licence—
 - (a) the incumbent of the benefice in which that curate is licensed to minister may exercise his right under and in accordance with section 95 of the ^{M4}Pluralities

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Act 1838 to give that curate notice to quit his curacy before the expiration of that term; and

(b) that curate may quit his curacy before the expiration of that term but only in accordance with section 97 of that Act.

(3) The power to make Canons in pursuance of this section shall be exercisable before the day on which this Measure comes into operation, but no such Canon shall come into operation before that day.

Marginal Citations

M4 1838 c. 106.

3 F1 **U.K.**

Textual Amendments

F1 S. 3 repealed by Church of England (Miscellaneous Provisions) Measure 1983 (No. 2, SIF 21:3), s. 8(11)

4 **Periodical episcopal visitations of cathedrals not obligatory.** **U.K.**

At the end of section 6 of the ^{M5}Cathedral Measure 1963 (relationship of bishops to their cathedral churches) there shall be added the following paragraph :—

“ This section shall not be taken to require the statutes of a cathedral church to provide for periodical episcopal visitations of that church, and notwithstanding anything in any such statutes or in any rule of ecclesiastical law it shall not be obligatory for a bishop to visit the cathedral church of his diocese at regular intervals. ”

Modifications etc. (not altering text)

C1 The text of ss. 1(6), 4, 5, and Sch. Pts. I, II 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

M5 1963 No. 2.

5 **Remuneration for performance of occasional ecclesiastical duties in vacant benefices.** **U.K.**

In section 1(1) of the ^{M6}Benefices (Sequestrations) Measure 1933 (which empowers bishops to determine the amount of the remuneration to be paid to clerks in Holy Orders who perform occasional ecclesiastical duties in vacant benefices), for the words from “to clerks” to the end there shall be substituted the words “for the performance of occasional ecclesiastical duties in any benefice during a vacancy therein and, where any such duty is performed by a person other than a clerk in Holy Orders, the person to whom the remuneration is to be paid”.

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Modifications etc. (not altering text)

- C2** The text of ss. 1(6), 4, 5, and Sch. Pts. I, II 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

- M6** 1933 No. 4.

6 Amendment of law relating to burials in parish burial ground. **E**

- (1) A person who apart from this subsection has no right of burial in the churchyard or other burial ground of a parish shall have a right of burial therein if at the date of his death his name is entered on the church electoral roll of the parish.
- (2) No person, other than a person having a right of burial in the churchyard or other burial ground of a parish, shall be buried therein without the consent of the minister of the parish, but in deciding whether to give such consent the minister shall have regard to any general guidance given by the parochial church council of the parish with respect to the matter [^{F2}; and in this subsection the reference to burial includes a reference to disposal of cremated remains].
- (3) In this section “minister”, in relation to a parish, means the incumbent of the benefice to which the parish belongs or, if the benefice is vacant, the minister acting as priest in charge of the parish or the curate licensed to the charge of the parish or, if there is no such minister or curate, the rural dean of the deanery in which the parish is.

Textual Amendments

- F2** Words in s. 6(2) inserted (11.7.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para.12** (with s. 18); Instruments dated 27.5.1992 and 11.7.1992 made by the Archbishops of Canterbury and York.

7 Repeal of s. 13 of Burnley Rectory Act 1890. **U.K.**

Notwithstanding anything in section 13 of the ^{M7}Burnley Rectory Act 1890 (which in effect provides for the see of the suffragan bishop of Burnley and the rectory of Burnley to be held together by the same person), the incumbent of the benefice consisting of the rectory of Burnley in the diocese of Blackburn may resign that benefice without resigning the office of suffragan bishop of Burnley, and on the date on which that benefice first becomes vacant after the commencement of this Measure the said section 13, and section 13 of the ^{M8}Bishopric of Blackburn Measure 1923 (which amended the said section 13), shall be repealed.

Marginal Citations

- M7** 1890 c. cxxiii.
M8 1923 No. 4.

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8 Citation, construction commencement and extent. U.K.

- (1) This Measure may be cited as the Church of England (Miscellaneous Provisions) Measure 1976.
- (2) Any reference in this Measure to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.
- (3) This Measure shall come into operation at the expiration of a period of one month beginning with the date on which it is passed.
- (4) This Measure shall extend to the provinces of Canterbury and York except that it shall only extend to the Isle of Man and the Channel Islands in accordance with the following provisions of this section.
- (5) Sections 1 and 2 shall extend to the Isle of Man and sections 3 and 6 may by Act of Tynwald be extended to the Isle of Man with such exceptions, adaptations and modifications as may be specified in such Act.
- (6) This Measure may be applied to the Channel Islands, or either of them, as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, in accordance with those Measures.

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SCHEDULE **U.K.**

Sections 1, 3.

REPEALS

Modifications etc. (not altering text)

- C3** The text of ss. 1(6), 4, 5, and Sch. Pts. I, II 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.

PART I **U.K.**

REPEALS UNDER SECTION 1 OF THIS MEASURE

Session and Chapter	Short Title	Extent of Repeal
28 & 29 Vict. c. 122.	The Clerical Subscription Act 1865.	Sections 2 and 3. In section 5, the words from “make” to “simony, and”. Section 6 and 10.
61 & 62 Vict. c. 48.	The Benefices Act 1898.	The Schedule.
14 & 15 Geo.5 No. 1.	The Benefices Act 1898 (Amendment) Measure 1923.	Section 5.
15 & 16 Geo. 6 & 1 Eliz. 2. c. xxxviii.	The City of London (Guild Churches) Act 1952.	In section 8(4), the words from “make” to “church”. In section 14(1), the words from “save” to the end.

PART II **U.K.**

REPEALS UNDER SECTION 3 OF THIS MEASURE

Session and Chapter	Short Title	Extent of Repeal
26 Geo.5 & 1 Edw. 8. No. 5.	The Ecclesiastical Commissioners (Powers) Measure 1936.	Section 8(2).
1 and 2 Geo. 6. No. 3.	The Parsonages Measure 1938.	Section 14.
1 & 2 Eliz. 2. No. 2.	The Diocesan Stipends Funds Measure 1953.	In section 8(1), in the definition of “the bishop”, the words from “(including” to the end.
7 & 8 Eliz. 2. No. 2.	The Vacancies in Sees Measure 1959.	Sections 3 and 7(2).

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8 & 9 Eliz. 2. No. 1.	The Church Property (Miscellaneous Provisions) Measure 1960.	Section 26.
1968 No. 1.	The Pastoral Measure 1968.	Section 85. In section 90(1), in the definition of “the bishop”, the words from “and includes” to the end.
1972 No. 2.	The Repair of Benefice Buildings Measure 1972.	Section 28.

Status:

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Changes to legislation:

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