



Church of England (Miscellaneous Provisions) Measure 1978

1978 No. 3

A Measure passed by the General Synod of the Church of England to make further provision with respect to the special majorities required for the final approval of certain Measures; to make further provision with respect to the continuance in certain offices of persons in office at the commencement of the Ecclesiastical Offices (Age Limit) Measure 1975; to make provision for altering the financial year of the Church Commissioners; to amend Schedule 1 to the Church Commissioners Measure 1947; to provide for an additional member of diocesan boards of finance; to amend section 20 of the Parochial Registers and Records Measure 1978; to extend section 17 of the New Parishes Measure 1943; to make provision for facilitating the conveyance of ecclesiastical property in certain circumstances; to make provision for extending the Inspection of Churches Measure 1955 and schemes made thereunder; to amend section 43 of the Cathedrals Measure 1963 and sections 3 and 43 of the Endowments and Glebe Measure 1976; to repeal so much of section 21 of the Queen Anne's Bounty Act 1714 as requires certain documents to be enrolled in the High Court. [30th June 1978]

Commencement Information

II Measure wholly in force at 30.7.1978 see [s. 13\(4\)](#)

1 Special majorities required for certain Measures.

In Article 8 of the Constitution of the General Synod of the Church of England set out in Schedule 2 to the ^{M1}Synodical Government Measure 1969, which Article lays down certain requirements for the final approval of the General Synod for, among other things, a Measure or Canon providing for permanent changes in the Services of Baptism or Holy Communion or in the Ordinal, the following paragraph shall be inserted after paragraph (1B):

Status: Point in time view as at 01/03/1993.

Changes to legislation: There are currently no known outstanding effects for the Church of England (Miscellaneous Provisions) Measure 1978. (See end of Document for details)

“(1C) A motion for final approval of a Measure providing for permanent changes in any such Service or in the Ordinal shall not be deemed to be carried unless it receives the assent of a majority in each House of the General Synod of not less than two-thirds of those present and voting.”.

Modifications etc. (not altering text)

- C1** The text of ss. 1, 4, 6, 10, 11(1) and 12 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.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** 1969 No. 2.

2 Provisions with respect to certain persons in office at commencement of Ecclesiastical Offices (Age Limit) Measure 1975.

- (1) Section 1(1) of the ^{M2}Ecclesiastical Offices (Age Limit) Measure 1975 (no person to be capable of being appointed or presented to certain offices if he has attained the age of seventy) shall not be taken as invalidating any provision made by a pastoral scheme or order for designating as the holder of an office listed in the Schedule to that Measure a person who on the date of the coming into operation of the scheme or order had attained the age of seventy years if immediately before that date, and at the commencement of that Measure, he was the incumbent of a benefice affected by the scheme or order.
- (2) Where—
- by a pastoral scheme or order a person is designated as the holder of an office listed in the Schedule to the said Measure, and
 - that person was at the commencement thereof, and continued until the coming into operation of the scheme or order to be, the incumbent of a benefice affected by the scheme or order,
- then, for the purposes of section 1(4)(d) of that Measure (requirement to vacate office on attaining age of seventy not to apply to person who held the office at the said commencement), he shall be deemed to have held the first mentioned office at the said commencement.
- (3) Where by virtue of subsection (2) above a person is deemed to have been at the said commencement the holder of the office of rector or vicar in a team ministry established by a pastoral scheme and the office is to be held for a term of years specified by or under the scheme, the term of years for which that person is entitled by virtue of the scheme to hold the office may, notwithstanding anything in the said Measure, be extended in accordance with section 19(5) of the ^{M3}Pastoral Measure 1968.
- (4) The provisions of this section shall apply in relation to a pastoral scheme or order which came into operation before, or comes into operation after, the commencement of this Measure, and in this section “pastoral scheme” and “pastoral order” have the same meanings respectively as in the Pastoral Measure 1968.

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Marginal Citations

- M2** 1975 No. 2.
M3 1968 No. 1.

3 Provision for altering financial year of Church Commissioners.

- (1) As from such year as the Board of Governors of the Church Commissioners may determine the financial year of the Church Commissioners shall commence on 1st January instead of 1st April and, accordingly, on and after the making of a determination under this subsection, section 10(1) of the Church Commissioners Measure 1947 shall have effect as if for the word “April” there were substituted the word “January”.
- (2) The financial year of the Church Commissioners which is current when a determination is made by the said Board under subsection (1) above shall end on 31st December.

Modifications etc. (not altering text)

- C2** The text of s. 3(1) is in the form in which it was originally enacted: part of the text 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.

4 Amendments relating to constitution of Church Commissioners.

- (1) In that part of paragraph 1 of Schedule 1 to the ^{M4}Church Commissioners Measure 1947 (constitution of the Church Commissioners) which provides that of the eight Commissioners, four of whom are nominated by Her Majesty and four by the Archbishop of Canterbury, at least two shall be, or shall have been, of counsel to Her Majesty, for the word “two” there shall be substituted the word “one”.
- (2) In paragraph 2 of the said Schedule 1 for the words from the beginning to “determine”, where first occurring, there shall be substituted the following words:—

“ Commissioners appointed by the General Synod (who need not be members thereof) shall be appointed for five years at such time and in such manner as the Synod may from time to time determine, but if the Synod alters the time at which they are to be appointed the period of office of the Commissioners so appointed who are then in office shall be extended or reduced accordingly, as the circumstances require ”.
- (3) In the said Schedule 1, the following paragraph shall be inserted after paragraph 5:—

“5A (1) Without prejudice to the paragraph 5 above, if an appointed Commissioner, being a Commissioner appointed by the General Synod, was at the time of his appointment a member of the Synod, then, subject to sub-paragraph (2) below, he shall on ceasing to be a member thereof thereby vacate his membership.

(2) Where a Commissioner to whom sub-paragraph (1) above applies ceases to be a member of the General Synod by reason of the dissolution of that Synod he may continue to act during the period of the dissolution as

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a Commissioner, but if he does not stand for re-election to the General Synod or is not re-elected, the preceding provision shall cease to apply to him with effect from the date on which the appointment of his successor is announced by the presiding officer.”.

Modifications etc. (not altering text)

- C3** The text of ss. 1, 4, 6, 10, 11(1) and 12 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

- M4** 1947. No. 2.

5 Additional member of diocesan boards of finance.

The diocesan board of finance for each diocese shall take such action as it thinks appropriate to ensure that the diocesan member of the Central Board of Finance shall, unless he is also the secretary of the board, be a member of the board entitled to vote at meetings of the board.

In this section “diocesan member of the Central Board of Finance” means in relation to a diocese the member for that diocese elected in accordance with the articles of association of the Central Board of Finance.

6 Restriction on power to charge fees for searches, etc. of certain registers in certain diocesan record offices.

In section 20(2) of the ^{M5}Parochial Registers and Records Measure 1978 (searches etc. of register books of baptisms or burials deposited in a diocesan record office), for paragraph (b) thereof there shall be substituted—

- “(b) the authority under whose control that office is, not being a local authority, may charge such fees, if any, for allowing a search to be made in any such book or for providing a copy of an entry therein as is payable to an incumbent for the same service by virtue of any order for the time being in force made under the Ecclesiastical Fees Measure 1962”;

and at the end of subsection (5) of the said section 20 there shall be inserted the words “and nothing in subsections (2) and (3) above shall be taken as affecting the powers of local authorities under section 1 of the ^{M6}Local Government (Records) Act 1962 (power to promote adequate use of records)”.

Modifications etc. (not altering text)

- C4** The text of ss. 1, 4, 6, 10, 11(1) and 12 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** 1978 No. 2.

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M6 1962 c. 56.

7 Extension of power to dispose of land no longer required for purpose for which acquired.

Section 17(1) of the ^{M7}New Parishes Measure 1943 (powers of the Church Commissioners and other persons to sell, exchange etc. land or a building no longer required for the purpose for which it was acquired) shall apply in relation to land acquired by the Church Commissioners for any of the purposes mentioned in section 13(1)(e) of that Measure, that is to say, for providing access to or improving the amenities of a church, churchyard or burial ground or a house of residence of an incumbent, as it applies in relation to any land or building acquired for any of the purposes mentioned in paragraphs (a) to (c) of the said section 13(1) and, accordingly, in the said section 17(1) for the words “or (c)” there shall be substituted the words “(c) or (e)”.

Modifications etc. (not altering text)

C5 The text of s. 7 is in the form in which it was originally enacted: part of the text 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

M7 1943 No. 1.

8 Church, etc. to be vested in Church Commissioners for certain purposes where fee simple is in abeyance.

- (1) Where the fee simple of any ecclesiastical property is in abeyance, the fee simple shall for the purposes of a compulsory acquisition of the property under any enactment be treated as being vested in the Church Commissioners, and any notice to treat shall be served, or be deemed to have been served, accordingly.
- (2) In this section “ecclesiastical property” means land being or forming part of a church subject to the jurisdiction of a bishop of any diocese (other than the diocese of Sodor and Man) or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction, and “land” includes anything falling within any definition of that expression in the enactment under which the purchase is authorised.

F19

Textual Amendments

F1 S. 9 repealed (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), ss. 32(2), 33(2), [Sch.8](#); Instrument dated 16.2.1993 made by the [Archbishops of Canterbury and York](#)

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10 Vacation of office by non-residentiary canons in Christ Church Cathedral.

- (1) In subsection (1) of section 43 of the ^{M8}Cathedrals Measure 1963 (power of the Bishop of Oxford to appoint non-residentiary canons) the words from “and any such” to the end shall be omitted and after that subsection there shall be inserted:—
- “(2) Subject to subsection (3) of this section, a non-residentiary canon in the said cathedral church shall, unless the bishop otherwise determines, vacate that office—
- (a) on ceasing to be beneficed, or licensed to serve, in the diocese of Oxford, or
 - (b) on attaining the age of seventy years,
- whichever event first occurs .
- (3) Subsection (2) of this section shall not apply to any person who held the office of non-residentiary canon in the said cathedral church at the commencement of the Church of England (Miscellaneous Provisions) Measure 1978, but, unless the bishop otherwise determines, that person shall vacate that office on ceasing to reside in the diocese of Oxford.
- (4) The bishop may confer the title of canon emeritus in the said cathedral church on any person who vacates the office of non-residentiary canon in that church in accordance with subsection (2) or (3) of this section or in accordance with subsection (1) thereof, as originally enacted.”
- (2) Subsection (2) of the said section 43 shall be re-numbered (5) and in that section (rights and duties of non-residentiary canons to be determined by the dean and canons) after the words “non-residentiary canons” there shall be inserted the words “and of canons emeriti”.

Modifications etc. (not altering text)

- C6** The text of ss. 1, 4, 6, 10, 11(1) and 12 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

- M8** 1963 No. 2.

11 Minor corrections of Endowments and Glebe Measure 1976.

- (1) In section 3(3) of the ^{M9}Endowments and Glebe Measure 1976 (amount of annual personal grant of incumbent of benefices held in plurality if one or more but not all of those benefices is declared vacant under the Incumbents (Vacation of Benefices) Measure 1975 for the words “1975” there shall be substituted the words “1977”.
- (2) . . . ^{F2}

Textual Amendments

- F2** S. 11(2) repealed by Church of England (Miscellaneous Provisions) Measure 1983 (No. 2, SIF 21:3), s. 8(11)

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Modifications etc. (not altering text)

C7 The text of ss. 1, 4, 6, 10, 11(1) and 12 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

M9 1976 No. 4.

12 Abolition of requirement to enrol certain deeds etc. in High Court.

In section 21 of the ^{M10}Queen Anne’s Bounty Act 1714 (which empowers the Church Commissioners by deed or by instrument to allot land, etc. vested in them to any church or chapel and provided that such augmentation so made shall be effectual provided such deed or instrument be enrolled in the High Court within the period therein specified) the words from “provided such” to the end are hereby repealed.

Modifications etc. (not altering text)

C8 The text of ss. 1, 4, 6, 10, 11(1) and 12 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

M10 1714 c. 10.

13 Citation, construction, commencement and extent.

- (1) This Measure may be cited as the Church of England (Miscellaneous Provisions) Measure 1978.
- (2) The Synodical Government Measures 1969 to 1974 and section 1 of this Measure may be cited together as the Synodical Government Measures 1969 to 1978.
- (3) Any reference in this Measure to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.
- (4) This Measure shall come into operation at the expiration of a period of one month beginning with the day on which it is passed.
- (5) This Measure shall extend to the provinces of Canterbury and York except the Channel Islands and the Isle of Man, but sections 2, 7 and 11 thereof may be applied to the Channel Islands as defined in the ^{M11}Channel Islands (Church Legislation) Measures 1931 and ^{M12}1957, or either of them, in accordance with those Measures.

Marginal Citations

M11 1931 No. 5.

M12 1957 No. 1

Status:

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Changes to legislation:

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