



# Patronage (Benefices) Measure 1986

1986 No. 3

## PART III

### MISCELLANEOUS PROVISIONS AS TO PATRONAGE

#### *Appointment of patron of benefice which has no registered patron*

#### **25 Appointment of patron of benefice which has no registered patron.**

Where at the expiration of the registration period or at any subsequent time no person is registered as the patron of a benefice, then unless in relation to that benefice—

- (a) a notice under paragraph 7 of Schedule 1 to this Measure has been served on any person by the registrar of the diocese in which the benefice is and either the period mentioned in paragraph 8 of that Schedule has not expired or an appeal under paragraph 9 thereof has not been determined; or
- (b) the right of presentation to the benefice is exercisable by the personal representatives of a deceased patron,

the Diocesan Board of Patronage for the diocese shall become the patron of that benefice, and the registrar of the diocese shall register that Board as patron accordingly.

#### *Diocesan Boards of Patronage*

#### **26 Diocesan Board of Patronage.**

- (1) There shall continue to be a body corporate in every diocese called the Diocesan Board of Patronage.
- (2) The constitution and rules of procedure of Diocesan Boards of Patronage shall be those set out in Schedule 3 to this Measure.

*Status: Point in time view as at 01/01/1997.*

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## 27 Powers of Diocesan Boards of Patronage.

- (1) Subject to subsection (2) below, a Diocesan Board of Patronage shall have power to acquire, hold and transfer any right of patronage and to exercise any right of presentation or other right incident to a right of patronage held by the Board.
- (2) Subject to subsection (3) below, a Diocesan Board of Patronage shall not transfer any right of patronage held by it to any other person without the consent of the parochial church council of the parish or each of the parishes belonging to the benefice concerned unless the transfer is authorised by or under any enactment.
- (3) If a parish is transferred from a benefice in one diocese to a benefice in another diocese, the Diocesan Board of Patronage for the first-mentioned diocese may transfer its right of patronage to the Diocesan Board of Patronage of that other diocese without the consent of the parochial church council of that parish.
- (4) Where the transfer of a right of patronage requires the consent of a parochial church council under this section, any transfer of the right effected without that consent shall be void.

## 28 Presentation by Diocesan Board of Patronage in case of void benefice.

Where a benefice becomes void under section 4 of the <sup>M1</sup>Simony Act 1588 (simoniacal presentation etc. to a benefice declared void and the presentation to be made by the Crown for that turn) the presentation to that benefice upon that vacancy shall be made by the Diocesan Board of Patronage.

### Marginal Citations

M1 1588 c. 6.

*Benefices affected by pastoral re-organisation*

## 29 Provisions as to patronage affected by pastoral schemes.

- (1) In section 32 of the <sup>M2</sup>Pastoral Measure 1983 (provisions as to patronage) in subsection (1) for the word “patron” there shall be substituted the words “registered patron” and for subsection (3) there shall be substituted the following subsections—
  - “(3) Without prejudice to the generality of subsections (1) and (2) above, a pastoral scheme (whether it relates only to an existing benefice or provides for the creation of a new benefice) may with the consent of the registered patron or patrons of any benefice affected by the scheme provide for the transfer of existing rights of patronage to, or for the vesting of new rights of patronage in, a special patronage board constituted by the scheme.
  - (3A) A special patronage board constituted by a pastoral scheme by virtue of subsection (3) shall consist of such members as the scheme may provide, and the scheme may designate the member who is to be chairman of the board; and the following provisions of paragraph 1 of Schedule 3 shall apply to such patronage board as they apply to a patronage board constituted by a pastoral scheme establishing a team ministry, that is to say—
    - (a) sub-paragraph (6) so far as it relates to any member of a board;

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- (b) sub-paragraph (7) so far as it relates to the entitlement to votes of any member of a board;
  - (c) sub-paragraph (8), and
  - (d) sub-paragraph (10) so far as it relates to the transfer of the rights to be members of a board.”
- (2) Where any right of patronage of a benefice is transferred to or becomes vested in any person by virtue of a pastoral scheme the registrar of the diocese in which that benefice is shall, on receiving a copy of the Order in Council confirming the scheme, register him as the patron of that benefice.
- (3) Subject to any provision for the designation or selection of the first incumbent of a new benefice created by a pastoral scheme, sections 7 to 16 of this Measure shall apply to the making of the first presentation to the benefice as if the coming into operation of the scheme were the occurrence of a vacancy in the benefice.

**Marginal Citations**

**M2** 1983 No. 1.

*Other amendments of the law relating to rights of patronage etc.*

**30 Removal of certain disabilities.**

- (1) The following enactments (which impose disabilities on patrons practising the Roman Catholic religion etc.) that is to say—
- (a) section 13 of the Presentation of Benefices Act 1605;
  - (b) section 2 of the Presentation of Benefices Act 1688; and
  - (c) section 1 of the Presentation of Benefices Act 1713,
- shall cease to have effect.
- (2) Section 15 of the <sup>M3</sup>Roman Catholic Relief Act 1829 (Roman Catholic member of lay body corporate not to vote in election, presentation or appointment of persons to ecclesiastical benefice, etc., in the gift, patronage or disposal of that body) shall cease to have effect in so far as it relates to benefices.
- (3) Section 17 of the Roman Catholic Relief Act 1829 (right of presentation to benefice to devolve upon the Archbishop of Canterbury for the time being where right belongs to office which is held by person professing the Roman Catholic religion) and, in section 4 of the <sup>M4</sup>Jews Relief Act 1858, the words from the beginning to “being; and” (similar provision relating to right of presentation belonging to office held by person professing the Jewish religion) shall cease to have effect.

**Marginal Citations**

**M3** 1829 c. 7.

**M4** 1858 c. 49.

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### **31 Abrogation of rules as to lapse.**

- (1) Without prejudice to the provisions of section 16 of this Measure, any rule of law whereby the right of patronage of a benefice lapses to a bishop or archbishop or to Her Majesty in right of Her Crown shall cease to have effect.
- (2) Nothing in this section shall affect any right of presentation which on a vacancy in a benefice is exercisable by Her Majesty—
  - (a) by reason of the appointment to a diocesan bishopric of the incumbent of the benefice concerned, or
  - (b) by reason of a vacancy in the see of a diocesan bishop who is a registered patron of the benefice concerned.

### **32 Advowsons appendant to become advowsons in gross.**

- (1) Every advowson which immediately before the date on which this section comes into force is appendant to any land or any manor shall by virtue of this section be severed from that land or manor and become an advowson in gross which—
  - (a) in the case of land belonging at that date to a charity, shall belong to that charity;
  - (b) in any other case, shall belong in his personal capacity to the person who at that date is the owner in fee simple of that land or the lord of that manor, as the case may be.
- (2) Every advowson which immediately before the said date is appendant to any rectory, not being a rectory with cure of souls, shall by virtue of this section be severed from that rectory and become an advowson in gross belonging in his personal capacity to the person who at that date is the rector of that rectory.
- (3) Nothing in this section shall affect the trusts, if any, on which any advowson is held.

### **33 Transfer of advowson held on trust for sale or comprised in settled land.**

- (1) Where any advowson is [<sup>F1</sup>subject to a trust of land], it shall be lawful for the trustees to transfer the advowson gratuitously to any person who has agreed to accept it and—
  - (a) being an individual—
    - (i) is an ecclesiastical corporation sole, or
    - (ii) is an actual communicant member of the Church of England, or
  - (b) being a body of persons, corporate or unincorporate,—
    - (i) is one of the bodies mentioned in section 8(7) of this Measure, or
    - (ii) has the furtherance of the work of the Church of England as one of its objects.
- (2) Where the consent of any person is by any instrument containing such a trust, or by any statutory provision, made requisite to the execution of the trust, then, subject to [<sup>F2</sup>section 10 of the Trusts of Land and Appointment of Trustees Act 1996 (consents)], the trustees shall obtain the consent of that person to the execution of a transfer made lawful by subsection (1) above.
- (3) The tenant for life of settled land may make a grant in fee simple of any advowson comprised in the settled land gratuitously to any such person as is referred to in subsection (1) above.

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- (4) Subsection (3) above shall be construed as one with the <sup>M5</sup>Settled Land Act 1925, and that Act shall apply as if the power conferred by subsection (3) had been conferred by that Act.
- (5) Nothing in any local Act or trust deed shall prevent the transfer inter vivos by trustees of an advowson which is the subject of a trust.

#### Textual Amendments

- F1** Words in s. 33(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 24(a)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**
- F2** Words in s. 33(2) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 24(b)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

#### Marginal Citations

- M5** 1925 c. 18.

### 34 Abolition of certain rights etc. of patronage.

- (1) The right of pre-emption of the patron of a benefice under section 4 of the <sup>M6</sup>Parsonages Measure 1938 over any property belonging to the benefice in respect of which it is proposed to exercise a power of sale conferred by that Measure is hereby abolished.
- (2) The requirement to obtain the consent of the patron of a benefice to the exercise of the power conferred by—
  - (a) section 2A of the Parsonages Measure 1938 (power of bishop during vacancy in benefice to divide, enlarge or improve parsonage house); or
  - (b) section 9(1) of the <sup>M7</sup>Church Property (Miscellaneous Provisions) Measure 1960 (power of incumbent or bishop to take or grant easements over land belonging to benefice), or
  - (c) section 11(1) of that Measure (power of incumbent to dedicate certain land belonging to benefice for purpose of a highway),is hereby abolished.
- (3) The requirement to obtain the consent of the patron of a church to the exercise of the power conferred by section 20(1) of the <sup>M8</sup>Marriage Act 1949 (power of bishop to licence chapel for publication of banns and solemnisation of marriages) is hereby abolished.
- (4) The obligation imposed by section 4 of the <sup>M9</sup>Army Chaplains Act 1868 to transmit to the patron or patrons of a church or chapel affected a copy of the draft of a scheme for constituting a precinct or district an extra parochial district for the purpose of that Act in order that he or they may have an opportunity of making observations or objections is hereby abolished.
- (5) The Parsonages Board within the meaning of the <sup>M10</sup>Repair of Benefice Buildings Measure 1972 shall consult the registered patron, if any, of the benefice affected before—
  - (a) determining on the alterations (if any) with which damage to the parsonage house is to be made good under section 12(3) of that Measure, or
  - (b) determining that the whole or part of the damage be not made good,

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but shall not, in either case, be prohibited from making its determination without the consent of that patron.

- (6) No incumbent shall be prohibited under section 21(1) of the Repair of Benefice Buildings Measure 1972 from making additions or alterations to the buildings of the parsonage house without the consent of the patron, but before making any such addition or alteration he shall consult the registered patron, if any, of the benefice.

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**Marginal Citations**

- M6** 1938 No. 3.  
**M7** 1960 No. 1.  
**M8** 1949 c. 83.  
**M9** 1868 c. 83.  
**M10** 1972 No. 2.

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