Incumbents (Vacation of Benefices) (Amendment) Measure 1993

1993 No. 1

A Measure passed by the General Synod of the Church of England to amend the Incumbents (Vacation of Benefices) Measure 1977. [27th July 1993]

Commencement Information
I1 Act not in force at Royal Assent see s. 16(2)

1 Code of Practice as to reconciliation.

In the [M1]1977 Measure section 1 shall be re-numbered as section 1A and before that section there shall be inserted—

"1 **Code of Practice as to reconciliation.**

(1) It shall be the duty of the House of Bishops to draw up rules of guidance for the purposes of this Measure generally and, in particular, as to the steps which that House considers should be taken, where the bishop of a diocese receives notice of intention to make a request under section 1A of this Measure, to—

(a) promote better relations between the incumbent and the parishioners; and

(b) remove the causes of their estrangement,

and to promulgate the rules of guidance in a Code of Practice.

(2) The House of Bishops may at any time amend or replace a Code of Practice issued under subsection (1) above by a further Code of Practice issued under that subsection.".

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M1 1977 No. 1.

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2 Request for enquiry under Part I.

(1) Section 1A of the 1977 Measure as re-numbered by this Measure (request for enquiry into pastoral situation in a parish) shall be amended as follows.

(2) After subsection (1) there shall be inserted—

"(1A) An enquiry under this Part of this Measure shall only be undertaken after the persons concerned have had an opportunity to resolve the pastoral situation in the parish in question; and, accordingly, a request for such an enquiry shall not be made unless notice of intention to make the request has been given by the person or persons concerned to the bishop of the diocese in which the parish in question is at least six months, and not more than twelve months, before the request is made.".

(3) At the end there shall be inserted—

"(7) A request made under this section may be withdrawn by notice in writing given to the bishop of the diocese in which the parish in question is and the secretary of the diocesan synod of that diocese by—

(a) in the case of a request made by the person mentioned in subsection (1)(a) or (b) above, that person;

(b) in the case of a request made by the persons mentioned in subsection (1)(c) above, a majority of the lay members of the parochial church council of the parish present and voting at a duly convened meeting of that council on a resolution that the request be withdrawn;

(c) in the case of a request made by the persons mentioned in subsection (1)(d) above, by a majority of the members of the bishop's council and standing committee of the diocesan synod of the diocese in which the parish is,

and where a request is withdrawn under this subsection no further steps shall be taken under this Part of this Measure in connection with the request.".

3 Power of bishop to order enquiry.

(1) Section 3 of the 1977 Measure (institution of enquiry) shall be amended as follows.

(2) In subsection (1) for the words from ", subject to" to the end there shall be substituted the words " the bishop may, if he thinks fit, direct the secretary of the diocesan synod to institute such enquiry ".

(3) After subsection (1) there shall be inserted—

"(1A) If, within the period of six months after the relevant date, the bishop neither gives a direction under subsection (1) above nor notifies the secretary of the diocesan synod that he has decided not to give such a direction, such a direction shall be deemed to have been given.

(1B) In this section "relevant date" means—

(a) in either of the cases described in subsection (1)(a) above, the date on which the request was made;

(b) in the case described in subsection (1)(b) above, the date on which the report was made;

(c) in the case described in subsection (1)(c) or (d) above, the date on which the bishop is informed that, notwithstanding that the archdeacon did not report that in his opinion an enquiry under this Part of this Measure should be instituted, such an enquiry is nevertheless required.".

(4) Subsections (2) and (3) (which specify circumstances in which the bishop has discretion whether or not to give a direction under subsection (1)) shall cease to have effect.

4 Abolition of diocesan committees of enquiry.

Enquiries under the 1977 Measure shall no longer be conducted by diocesan committees of enquiry, but shall in all cases be conducted by provincial tribunals and the provisions of that Measure relating to such committees shall cease to have effect.

5 Medical examinations.

After section 7 of the 1977 Measure there shall be inserted—

"**7A Medical examinations.**

(1) The tribunal by which an enquiry under Part I or II of this Measure is being conducted may direct that the incumbent concerned should undergo a medical examination in accordance with rules made under section 18 of this Measure for the purpose of obtaining a report on his mental or physical condition; and the tribunal may at any time revoke or vary a direction given under this subsection.

(2) Where a tribunal gives a direction under subsection (1) above and the incumbent concerned fails to take any step required of him for the purpose of giving effect to the direction, the tribunal may draw such inferences (if any) from that fact as appear proper in the circumstances, without prejudice to the drawing of any other inferences that may properly be drawn by the tribunal in the course of the enquiry.".

6 Inhibition in disability cases.

After section 9 of the 1977 Measure there shall be inserted—

"**9A Inhibition in disability cases.**

(1) Subject to the following provisions of this section, where—

(a) the bishop of a diocese has instructed the secretary of the diocesan synod to institute an enquiry under Part II of this Measure; or

(b) the tribunal by which an enquiry under Part I of this Measure was conducted has reported to the bishop in accordance with section 9(2) of this Measure,

and it appears to the bishop that it is desirable in the interests of the Church of England that he should take action under this section, it shall be lawful for the bishop to cause a notice to be served on the incumbent who is the subject of the enquiry inhibiting him from executing or performing without the consent

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of the bishop any such right or duty of or incidental to his office as the bishop may specify.

(2) A notice of inhibition shall not be served under subsection (1) above in the circumstances mentioned in paragraph (a) of that subsection after the tribunal by which the enquiry was conducted has made its report to the bishop unless it reports that in its opinion the incumbent concerned is unable by reason of age or infirmity of mind or body to discharge adequately the duties attaching to his benefice.

(3) Where the tribunal has reported to the bishop that in its opinion the incumbent concerned is unable by reason of age or infirmity of mind or body to discharge adequately the duties attaching to his benefice, a notice of inhibition shall not be served under subsection (1) above after the expiry of the period of three months following the making of the report unless—

(a) the bishop has notified the incumbent under section 11(2)(a) of this Measure that it is desirable that he should resign his benefice, in which case such a notice may be served at any time before he ceases to be the incumbent; or

(b) the bishop has given the incumbent leave of absence under section 11(2)(c) of this Measure, in which case such a notice may be served at any time during the leave of absence.

(4) A notice of inhibition served under subsection (1) above shall cease to have effect—

(a) if it is served before the tribunal makes its report to the bishop, on the making of the report unless it reports that the incumbent concerned is unable by reason of age or infirmity of mind or body to discharge adequately the duties attaching to his benefice; or

(b) on the expiry of the period of three months following the making of the report to the bishop unless the bishop has taken action under section 11(2)(a) or (c) of this Measure; or

(c) if the bishop gives the incumbent leave of absence under section 11(2)(c) of this Measure, on the expiry of the leave of absence; or

(d) on the benefice of the incumbent becoming vacant.

(5) The bishop may at any time revoke a notice of inhibition served under this section.”.

7 Powers of bishop in cases of breakdown of pastoral relationship.

In section 10 of the 1977 Measure (powers of bishop in cases of breakdown of pastoral relationship)—

(a) in subsection (2) for the word “shall” there shall be substituted the word “ may ”;

(b) in subsection (6) at the end there shall be inserted—
“ and may, if he thinks fit, disqualify such of them as he thinks fit from being a church warden or member or officer of the parochial church council of the parish in question and of such other parishes in his diocese as he may specify during such period not exceeding five years as he may specify ”;

(c) after subsection (6) there shall be inserted—

"(6A) Where the bishop disqualifies a person who is or who becomes a lay member of a deanery synod, a diocesan synod, or the General Synod from being a member of a parochial church council during any period under subsection (6) above, that person shall not be a member of that council by virtue of that lay membership during that period, notwithstanding rule 12(1)(e) of the Church Representation Rules";

(d) at the end there shall be inserted—

"(9) The bishop may revoke any disqualification effected under subsection (5) or (6) above.".

8 Compensation.

(1) For section 13 of the 1977 Measure there shall be substituted—

"**13 Compensation.**

(1) Subject to the provisions of this Measure, where—

(a) after obtaining the agreement of the bishop under subsection (1) of section 4 of this Measure, an incumbent resigns his benefice in accordance with subsection (2) of that section; or

(b) after an enquiry under Part I thereof, the bishop has declared the benefice of an incumbent vacant under section 10 of this Measure,

the incumbent shall, on application in writing made to the diocesan board of finance, be entitled to compensation for any loss suffered by him in consequence of his resignation or the vacation of his benefice.

(2) Schedule 2 to this Measure shall have effect for the purpose of determining the form and amount of compensation under this section and of prescribing the circumstances in which payments of compensation thereunder may be altered, terminated, suspended or refused and of providing for other matters relating thereto.

(3) Regulations approved by the General Synod under section 6 of the Clergy Pensions (Amendment) Measure 1972 may make such amendments to Schedule 2 to this Measure as the Synod considers necessary or expedient in consequence of any regulations made under subsection (1)(a) of that section.".

9 Rules.

For section 18 of the 1977 Measure there shall be substituted—

"**18 Procedural rules.**

(1) There shall be a committee, to be known as the Vacation of Benefices Rule Committee, which shall consist of a chairman and four other members appointed by the Standing Committee of the General Synod.

(2) The Vacation of Benefices Rule Committee shall have power to make rules for carrying into effect the provisions of this Measure and, in particular, for—

(a) regulating the procedure and practice (including the mode and burden of proof and admissibility of evidence) of provincial tribunals in connection with enquiries under this Measure;

(b) obtaining medical evidence in connection with enquiries under this Measure.

(3) Any three members of the Vacation of Benefices Rule Committee may exercise all the powers of the committee.

(4) Any rules made under this section shall be laid before the General Synod and shall not come into force until approved by the General Synod, whether with or without amendment.

(5) Where the Standing Committee determines that the rules do not need to be debated by the General Synod then, unless—

(a) notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the rules to be debated, or

(b) notice is so given by any such member that he wishes to move an amendment to the rules **[**[F1]and at least twenty five other members of the General Synod indicate when the amendment is called that they wish the amendment to be moved**]**,

the rules shall for the purposes of subsection (4) above be deemed to have been approved by the General Synod without amendment.

(6) The Statutory Instruments Act 1946 shall apply to any rules approved by the General Synod under subsection (4) above as if they were statutory instruments and were made when so approved, and as if this Measure were an Act providing that any such rules should be subject to annulment in pursuance of a resolution of either House of Parliament.”.

Textual Amendments

F1 S. 9: By 1995 No. 2, **s. 14** it is provided (1.9.1995) that, in para. (b) of s. 9(5) the words from “and at least” to the end of that para. shall be omitted; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York

10 References to pastoral situation.

After section 19 of the 1977 Measure there shall be inserted—

“19A Meaning of references to pastoral situation.

In this Measure any reference to a serious breakdown of the pastoral relationship between an incumbent and the parishioners shall be construed as a reference to a situation where the relationship between an incumbent and the parishioners of the parish in question is such as to impede the promotion in the parish of the whole mission of the Church of England, pastoral, evangelistic, social and ecumenical.”.

11 Extension of 1977 Measure to Isle of Man.

In section 21 of the 1977 Measure in subsection (2) (extent) at the end there shall be inserted the words " and, if an Act of Tynwald or an instrument made in pursuance of an Act of Tynwald so provides, shall extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument. ".

12 Constitution of provincial tribunals.

For the Schedule to the 1977 Measure there shall be substituted the Schedule set out in Schedule 1 to this Measure.

13 Form and amount of compensation.

In the 1977 Measure after Schedule 1 as substituted by this Measure there shall be inserted the Schedule set out in Schedule 2 to this Measure.

14 Amendments and repeals.

(1) The provisions of the 1977 Measure specified in Schedule 3 to this Measure shall have effect subject to the amendments specified in that Schedule, being minor amendments or amendments of a consequential nature.

(2) The provisions of the 1977 Measure specified in column 1 in Schedule 4 to this Measure are hereby repealed to the extent specified in column 2.

15 Transitional provisions.

(1) In relation to an incumbent in respect of whom a request for an enquiry under Part I of the 1977 Measure has been made in accordance with that Part before the coming into operation of section 8 above, section 13 of the 1977 Measure shall have effect as if the said section 8 (and Schedule 2 to this Measure) had not been enacted.

(2) Without prejudice to subsection (1) above, in the application of the 1977 Measure to an incumbent in respect of whom a request for such an enquiry has been made as aforesaid before the coming into operation of section 4 above or the bishop of a diocese has, before the coming into operation of that section, given an instruction under section 6 of that Measure that an enquiry should be held, that Measure shall have effect as if this Measure had not been enacted.

16 Citation, commencement, extent and interpretation.

(1) This Measure may be cited as the Incumbents (Vacation of Benefices) (Amendment) Measure 1993, and the 1977 Measure and this Measure may be cited together as the Incumbents (Vacation of Benefices) Measures 1977 and 1993.

(2) This Measure shall come into operation on such date as the Archbishops of Canterbury and York may jointly appoint, and different dates may be appointed for different provisions.

(3) This Measure shall extend to the whole of the provinces of Canterbury and York except the Channel Islands and the Isle of Man, but may be applied to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or

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either of them, in accordance with those Measures and, if an Act of Tynwald or an instrument made in pursuance of an Act of Tynwald so provides, shall extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument.

(4) In this Measure "the 1977 Measure" means the [M2]Incumbents (Vacation of Benefices) Measure 1977.

Subordinate Legislation Made

P1 S. 16(2): power fully exercised (25.7.1994): 1.9.1994 for whole Measure; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

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SCHEDULE 1

Section 12.

SCHEDULE TO BE SUBSTITUTED FOR THE SCHEDULE TO THE 1977 MEASURE

"SCHEDULE 1

CONSTITUTION OF PROVINCIAL TRIBUNALS

1 (1) A provincial tribunal shall consist of five persons appointed by the Vicar-General of the province in which the parish in question is situated.

(2) Of the five persons to be so appointed—

(a) one, who shall be the chairman, shall be either the chancellor of a diocese in the province for which the tribunal is to be appointed, other than the diocese in which the parish in question is situated, or a Queen's Counsel who is a communicant member of the Church of England;

(b) two shall be clerks in Holy Orders from the panel appointed from the members of the Lower House of the Convocation of the province concerned under paragraph 15(1)(b) of Schedule 4 to the Pastoral Measure 1983 (Appeal Tribunal for compensation of clergy); and

(c) two shall be lay persons from the panel appointed from the members of the House of Laity of the General Synod under paragraph 15(1)(c) of the said Schedule 4:

Provided that no person who is ordinarily resident in the diocese in which the parish in question is or whose name is entered on the electoral roll of any parish in that diocese or who is a clerk in Holy Orders authorised to exercise his ministry in any such parish, shall be appointed.

2 (1) Where the secretary of the diocesan synod is required to institute an enquiry under this Measure, the said secretary shall request the Vicar-General of the province to constitute a provincial tribunal in accordance with paragraph 1 above and to send him a list of the names and addresses of the proposed members.

(2) Any person appointed to serve as a member of the tribunal from a panel mentioned in sub-paragraph 1(2)(b) or (c) above may refuse to accept the appointment if in his opinion it would not be right for him to serve as a member of the tribunal.

(3) On receiving such list the said secretary shall send a copy of it to the incumbent concerned and shall inform him of his right of objection under paragraph 3 below and of the period within which the right must be exercised.

3 (1) The incumbent concerned may, within three weeks after a list of the proposed members is sent to him, object to any one or more of them by sending to the said secretary a written notice specifying the member or members to whom he objects and stating, in relation to that member or each of those members, as the case may be, the grounds of his objection.

(2) If notice of objection is duly given under sub-paragraph (1) above, the said secretary shall refer the matter to the Vicar-General of the province, other than the province for which the tribunal is to be appointed, for him to determine whether the objection is reasonable and should accordingly be allowed, and his decision shall be final.

(3) For the purpose of enabling him to decide whether the objection is reasonable, the Vicar-General may require the incumbent to supply him with such information as he may specify.

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(4) Where, in the case of any member objected to by the incumbent, the Vicar-General decides that the objection should be allowed, the said secretary shall request the Vicar-General mentioned in paragraph 1(1) above to appoint another person having the appropriate qualifications to serve in place of that member and to inform him of the name and address of the person appointed, and on receiving that information the said secretary shall inform the incumbent of the name and address of that person.

(5) Subject to sub-paragraph (6) below, the incumbent may within three weeks after he is informed of the name of the proposed member appointed under sub-paragraph (4) above object to that member by sending to the said secretary a written notice stating the grounds of his objection, and sub-paragraphs (2) to (4) above shall have effect where a notice of objection is duly given under this sub-paragraph as they have effect where such a notice is so given under sub-paragraph (1) above.

(6) The incumbent shall not be entitled to object to a person appointed under sub-paragraph (4) above from a panel mentioned in paragraph 1(2)(b) or (c) above if, were the objection to be allowed, the result would be that the tribunal could not be constituted, there being no other person on the appropriate panel available for appointment as a member of the tribunal.

4 As soon as the provincial tribunal which is to conduct an enquiry has been constituted the said secretary shall send a list of the members to the incumbent concerned, the archdeacon concerned, the designated representative (if any), the secretary of the parochial church council of the parish to which the enquiry relates and the person who is to act as secretary of the tribunal.

5 The Synodical Secretary of the Convocation of Canterbury or some other person nominated by him shall act as secretary of any tribunal constituted under this Schedule to conduct an enquiry in relation to a parish in the province of Canterbury, and the Synodal Secretary of the Convocation of York or some other person nominated by him shall act as secretary of any tribunal so constituted to conduct an enquiry in relation to a parish in the province of York."

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SCHEDULE 2

Section 13.

SCHEDULE TO BE INSERTED AS SCHEDULE 2 TO THE 1977 MEASURE

"SCHEDULE 2

COMPENSATION UNDER SECTION 13

1 (1) If agreement as to the form, amount and conditions of provision of compensation is reached between the person concerned and the diocesan board of finance, it shall be provided in accordance with the terms of the agreement.

(2) If no agreement is reached as aforesaid, the compensation shall consist of—

(a) in respect of loss of stipend, a basic award in accordance with paragraph 2 below; and

(b) in respect of loss of housing and removal expenses, a housing allowance and a resettlement allowance in accordance with paragraphs 3 and 4 below.

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2 (1) The basic award shall be in the form of periodical payments which shall be paid monthly to the person concerned during a period commencing on the date when he ceases to be the incumbent of the benefice concerned ("the material date") and expiring at the end of—

(a) such number of months immediately following the material date as results from adding together—

(i) one month for each year or part of a year during which the person concerned has served in whole-time stipendiary ecclesiastical service; and

(ii) one month for each year or part of a year which has passed before the material date since the person concerned attained the age of forty years; or

(b) thirty-six months immediately following the material date,

whichever is the greater:

Provided that where the person concerned has at the material date attained the age of fifty years the payments shall continue, if they would otherwise cease, until he attains an age within five years of the retiring age.

(2) Such payments shall cease to be payable in respect of the person concerned—

(a) when he attains the retiring age; or

(b) if he receives a pension under the pensions regulations before attaining that age, on the date on which the pension is first paid; or

(c) if he re-enters whole-time stipendiary ecclesiastical service (being service which is pensionable service for the purposes of the pensions regulations) within the Province of Canterbury (including the Diocese in Europe) or the Province of York, on the date of re-entry.

(3) Subject to paragraph (5) below, each monthly payment shall be of an amount equal to one-twelfth of the following—

(a) in the first period of twelve months, the national minimum stipend for the year in which the payment falls to be made;

(b) in the second period of twelve months, three-quarters of the national minimum stipend for the year in which the payment falls to be made;

(c) thereafter, two-thirds of the national minimum stipend for the year in which the payment falls to be made.

(4) Where a pension is payable under the pensions regulations to a person who has received periodical payments under this paragraph, the Church Commissioners shall augment the pension so as to ensure that it is at the same rate as it would have been had the period during which the periodical payments were made been one of pensionable service for the purpose of the regulations.

3 (1) The housing allowance shall be in the form of periodical payments which shall be paid monthly to the person concerned during the period in which the basic award is paid under paragraph 2 above.

(2) Each monthly payment shall be of such amount as may be determined by the diocesan board of finance, and in determining the amount the diocesan board of finance shall consult the Church of England Pensions Board as to its practice where a person retires on grounds of ill-health, and shall have regard to its advice.

4 The resettlement allowance shall be a single payment of an amount equal to three-tenths of the national minimum stipend for the year in which application for compensation

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was made or such greater amount as the Central Board of Finance of the Church of England may determine.

5 (1) Subject to paragraph (2) below, if a person who is applying for or receiving payments under paragraph 2(1) or 3(1) above accepts any office or employment, the diocesan board of finance may refuse the application or, as the case may be, may suspend the periodical payments or reduce the amount thereof so as to take account of the emoluments of or other benefits which arise from the office or employment.

(2) The diocesan board of finance shall not exercise its powers under paragraph (1) above in a manner whereby the total annual amount of the emoluments in question and the periodical payments (if any) would be less than the national minimum stipend.

(3) It shall be the duty of every person who applies for or receives periodical payments under paragraph 2(1) or 3(1) above to disclose to the diocesan board of finance any office or employment which has been accepted by him and the terms thereof; and if he fails to do so and it appears to the board that in consequence it has made periodical payments which otherwise it would not have made or periodical payments in excess of those it would otherwise have made, it may, without prejudice to its powers under paragraph (1) above, direct the repayment of the amount of the payments or excess or such part thereof as it thinks just, and that amount shall be recoverable as a debt due to the board.

6 An application for compensation shall be made to the diocesan board of finance in such manner as that board may determine; and where a person is incapacitated from making such an application himself that board may authorise some other person to make it on his behalf.

7 The cost of compensation shall be borne by the diocesan board of finance and charged either on the capital or the income account of the diocesan stipends fund, as may be agreed by the Church Commissioners and the diocesan board of finance.

8 (1) In this Schedule—

"compensation" means compensation under section 13 of this Measure;

"diocesan board of finance" has the same meaning as in the Pastoral Measure 1983;

"national minimum stipend", in relation to any year, means the national minimum stipend recommended for the stipends of clergymen of incumbent status for that year in the Annual Report of the Church Commissioners as the Central Stipends Authority;

"pensions regulations" means regulations for the time being in force under section 6 of the Clergy Pensions (Amendment) Measure 1972.

(2) In this Schedule the following expressions have the same meanings as in the pensions regulations—

"retiring age";

"stipendiary ecclesiastical service"."

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SCHEDULE 3

Section 14(1).

MINOR AND CONSEQUENTIAL AMENDMENTS TO THE 1977 MEASURE

1 In section 1A of the 1977 Measure as re-numbered by this Measure (request for enquiry into pastoral situation in a parish)—

(a) in subsection (1) for the word "his" in both places where it appears there shall be substituted the word " the " and after the word "may" there shall be inserted the words " , subject to subsection (1A) below ";

(b) in subsection (2)—

(i) for the words "shall be made" there shall be substituted the words " , and a notice of intention to make it, shall be made or given ";

(ii) after the words "diocese and" there shall be inserted the words " , in the case of a request, ";

(c) in subsection (3)—

(i) for the word "made" there shall be substituted the words " , and a notice of intention to make it, made or given ";

(ii) after the words "signing the request" there shall be inserted the words " or notice ";

(iii) after the words "with the enquiry" there shall be inserted the words " or notice ";

(iv) after the words "relating to the enquiry" there shall be inserted the words " or notice ";

(d) in subsection (4)—

(i) for the word "made" there shall be substituted the words " , and a notice of intention to make it, made or given ";

(ii) after the words "signed the request" there shall be inserted the words " or notice ";

(iii) at the end there shall be inserted the words " or the notice be given ";

(e) in subsection (5)—

(i) for the word "made" there shall be substituted the words " , and a notice of intention to make it, made or given ";

(ii) after the words "signed the request" there shall be inserted the words " or notice ";

(f) in subsection (6)—

(i) for the words "request made" there shall be substituted the words " request or notice made or given ";

(ii) in paragraphs (a), (b) and (c) at the end of each paragraph there shall be inserted the words " or gave the notice ".

2 In section 2 of the 1977 Measure (action to be taken by archdeacon in certain cases before institution of enquiry)—

(a) in subsection (1) the words—

(i) for the words "section 1" there shall be substituted the words " section 1A ";

(ii) the words "to take such steps as are mentioned in subsection (4) below and" shall be omitted;

(b) in subsection (5) for the words "such directions" there shall be substituted the words " the directions of the bishop ", for the word "his" in the second

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place where it appears there shall be substituted the word " the " and at the end there shall be inserted the words " ; and the archdeacon, in making his report to the bishop, shall have regard to the extent to which the current Code of Practice issued under section 1 of this Measure has been complied with ".

3 For section 5 of the 1977 Measure (enquiry to be conducted by diocesan committee or, at option of incumbent, provincial tribunal) there shall be substituted—

"**5 Enquiry to be conducted by provincial tribunal.**

An enquiry into the pastoral situation in a parish shall be conducted by a provincial tribunal for the province in which the parish in question is situated."

4 In section 6 of the 1977 Measure (enquiry whether incumbent is unable to discharge duties by reason of age or infirmity)—

(a) in subsection (1) for the words from "constitute" to "opinion of the committee" there shall be substituted the words " institute an enquiry as to whether ";

(b) after subsection (1) there shall be inserted—

"(1A) An enquiry under this section shall be conducted by a provincial tribunal for the province in which the benefice in question is situated.";

(c) in subsection (2)(a) for the words "Bishops (Retirement) Measure 1951" there shall be substituted the words " Bishops (Retirement) Measure 1986 ".

5 In section 7 of the 1977 Measure (constitution and procedure of committees and tribunals)—

(a) for subsection (1) there shall be substituted—

"(1) Provincial tribunals for the purposes of this Measure shall be constituted in accordance with the provisions of Schedule 1 to this Measure:
Provided that where, in the course of an enquiry conducted by a provincial tribunal, a member of the tribunal other than the chairman dies or becomes unable to act as a member by reason of illness or other incapacity, the tribunal may, with the consent of the parties, continue to conduct the enquiry in the absence of that member.";

(b) for subsection (5) there shall be substituted—

"(5) At an enquiry under this Measure the parties may be represented by a barrister or solicitor.";

(c) at the end there shall be inserted—

"(6) For the purposes of this section the parties, in relation to an enquiry, are—

(a) the incumbent concerned;

(b) the archdeacon in whose archdeaconry the benefice of the incumbent concerned is;

Status: *Point in time view as at 01/09/1995.*
Changes to legislation: *There are currently no known outstanding effects for the Incumbents (Vacation of Benefices) (Amendment) Measure 1993. (See end of Document for details)*

(c) the parochial church council of the parish concerned or, in the case of an enquiry under Part I of this Measure requested by the persons mentioned in section 1A(1)(c), the persons specified in the request as being willing to act as the representatives of the first-mentioned persons;

(d) in the case of such an enquiry requested by the persons mentioned in section 1A(1)(d), the persons specified in the request as being willing to act as the representatives of the first-mentioned persons.”.

6 In section 9 of the 1977 Measure (report to be made to the bishop)—

(a) in subsection (1) for the word “his” in both places where it appears there shall be substituted the word “ the ”;

(b) in subsection (3) for the word “committee” there shall be substituted the word “ tribunal ”.

7 In section 10 of the 1977 Measure (powers of bishop in cases of breakdown of pastoral relationship) in subsections (5) and (7) for the word “his” there shall be substituted in each case the word “ the ”.

8 In section 16 of the 1977 Measure (certain expenses to be paid by Diocesan Board of Finance) in subsection (1) for paragraph (f) there shall be substituted— “ and (f) any fee payable to the chairman of the tribunal which conducted the enquiry, ”.

9 In section 19 of the 1977 Measure (meaning of “benefice”) after the words “Pastoral Measure 1968” there shall be inserted the words “ or the Pastoral Measure 1983 ”.

SCHEDULE 4

Section 14(2).

PROVISIONS OF THE 1977 MEASURE REPEALED

Provision	***Extent of Repeal***
Section 2	In subsection (1) the words “to take such steps as are mentioned in subsection (4) below and” and subsection (4).
Section 3	Subsections (2) and (3).
Section 7	Subsections (2) and (3) and in subsection (4) the words “committee or”.
Section 8	In subsection (1) the words “committee or” and in subsection (2) the words “committee or” in both places and the words “, as the case may be,”.
Section 9	In subsections (1), (2) and (4) the words “committee or” and in subsection (5) the words “committee or” and “, as the case may be,”.
Section 10	In subsections (1), (2), (3), (5), (6) and (7) the words “committee or”.

Status: *Point in time view as at 01/09/1995.*
Changes to legislation: *There are currently no known outstanding effects for the Incumbents (Vacation of Benefices) (Amendment) Measure 1993. (See end of Document for details)*

Section 11	In subsections (1), (3) and (4) the words “committee or”.
Section 14	In subsection (1) the words “committee or” and “, as the case may be,”.
Section 16	In subsection (1) the words “diocesan committee of enquiry or”, the words “committee or” in all four places, the words “, as the case may be,” and the words from “and (g)” to the end of paragraph (g).

Status:
Point in time view as at 01/09/1995.

Changes to legislation:
There are currently no known outstanding effects for the Incumbents (Vacation of Benefices) (Amendment) Measure 1993.