



Church of England (Miscellaneous Provisions) Measure 1995

1995 No. 2

A Measure passed by the General Synod of the Church of England to make it lawful for Church of Ireland ministers to officiate in England; to provide for the appointment of lay canons in the Cathedral Church of Christ in Oxford; to enable the designation of archdeacon emeritus to be conferred; to amend the law relating to the resignation of deans, residentiary canons and archdeacons; to amend section 27 of the Ecclesiastical Commissioners Act 1840, section 6 of the Church Commissioners Measure 1947, the Schedule to the Church Funds Investment Measure 1958, section 21 of the Clergy Pensions Measure 1961, sections 2, 3 and 27 of and Schedule 1 to the Ecclesiastical Jurisdiction Measure 1963, section 20 of the Parochial Registers and Records Measure 1978, sections 9, 44, 51 and 87 of and Schedule 1 to the Pastoral Measure 1983, section 8 of the Church of England (Miscellaneous Provisions) Measure 1983 and section 6 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991; to amend certain enactments in connection with the procedure of the General Synod; and for purposes connected therewith. [19th July 1995]

1 Ministers of Church of Ireland

It shall be lawful for persons admitted to Holy Orders by a bishop of the Church of Ireland, whether or not they hold or have held any benefice or preferment in England, to officiate in England in a church or chapel belonging to the Church of England, if invited to do so by the minister having the cure of souls of the church or chapel, without notifying the bishop of the diocese in which the church or chapel is situate for the same period and subject to the same conditions as would be applicable to them if they had been admitted to Holy Orders by the bishop of a diocese in the Church of England.

2 Provisions relating to Christ Church Oxford

- (1) It shall be lawful for the constitution and statutes of the foundation known as the Cathedral Church of Christ in Oxford to provide for the appointment of not more than two lay canons and to specify the functions of such lay canon or canons.
- (2) No such lay canon shall be appointed unless the person concerned is —
 - (a) a communicant member of the Church of England; or
 - (b) a member of a church to which the Church of England (Ecumenical Relations) Measure 1988 applies and is entitled lawfully to take part in public worship in accordance with the forms of service and practice of the Church of England.
- (3) The regius professorship of ecclesiastical history which, pursuant to section 6 of the Ecclesiastical Commissioners Act 1840, was annexed to a canonry in the chapter of the said Cathedral Church may, notwithstanding the provisions of that Act, be held either by a residentiary canon in the said chapter or by a lay canon appointed pursuant to subsection (1) above.

3 Designation of archdeacon emeritus

The bishop of a diocese may confer the designation of archdeacon emeritus upon any person who retires immediately after holding the office of archdeacon.

4 Resignation of certain office holders

Where a dean, residentiary canon or archdeacon wishes to resign it shall not be necessary to proceed by way of a deed, but any such resignation shall be in writing, duly signed and witnessed and sent—

- (a) in the case of a dean, to Her Majesty;
- (b) in the case of a residentiary canon where the canonry is in the direct patronage of Her Majesty, to Her Majesty;
- (c) in the case of any other residentiary canon, to the diocesan bishop concerned; and
- (d) in the case of an archdeacon, to the diocesan bishop concerned.

5 Amendment of Ecclesiastical Commissioners Act 1840

In section 27 of the Ecclesiastical Commissioners Act 1840 (qualification of deans, archdeacons and canons)—

- (a) after the word “dean,” there shall be inserted the word “provost,”;
- (b) for the words “priest’s orders” there shall be substituted the words “holy orders and, in the case of a dean, provost or archdeacon, be in priest’s orders at the time of the appointment”.

6 Amendment of Church Commissioners Measure 1947

In section 6 of the Church Commissioners Measure 1947 for paragraph (b) (Assets Committee) there shall be substituted the following paragraph—

- “(b) the Assets Committee shall comprise—
(i) the First Church Estates Commissioner;

- (ii) one Commissioner, being a clerk in holy orders appointed for three years by the Board;
- (iii) not less than three nor more than five lay Commissioners appointed for three years by the Archbishop of Canterbury; and
- (iv) not less than one nor more than three Commissioners appointed for three years by the Archbishop of Canterbury, after consultation with the Board, from among the twenty clerks in holy orders and laymen appointed as Commissioners by the General Synod;

the persons referred to in sub-paragraphs (iii) and (iv) above being persons who in the opinion of the Archbishop are well qualified to assist in the management of the assets of the Commissioners.”.

7 Amendment of Church Funds Investment Measure 1958

The Scheme contained in the Schedule to the Church Funds Investment Measure 1958 shall have effect subject to the amendments specified in the Schedule to this Measure.

8 Amendment of Clergy Pensions Measure 1961

In section 21 of the Clergy Pensions Measure 1961 (constitution of Board)—

- (a) in paragraph (a) of subsection (3) the words from “of whom eight” to the end shall be omitted;
- (b) in subsection (5) for the words from “Standing Committee” to the end there shall be substituted the words “General Synod in such manner as the Synod may from time to time determine”.

9 Amendment of Ecclesiastical Jurisdiction Measure 1963

The Ecclesiastical Jurisdiction Measure 1963 shall have effect subject to the following amendments—

- (a) in section 2 (judge of consistory court) in paragraph (5) the words “and subscribe” and “and subscription” shall be omitted;
- (b) in section 3 (judges of the Arches and Chancery Courts)—
 - (i) in paragraphs (6) and (7) the words “and subscribe” shall be omitted;
 - (ii) in paragraph (8) the words “and subscription” shall be omitted;
- (c) in section 27 (power of chancellor to nominate trial judge in lieu of himself) in subsection (2) the words “and subscribe” shall be omitted;
- (d) in Schedule 1 (which sets out the form of the oaths to be taken by all judges) the words “AND SUBSCRIBED, AND DECLARATION TO BE MADE AND SUBSCRIBED,” and the words “AND SUBSCRIBED” (where they appear elsewhere) shall be omitted.

10 Amendment of Parochial Registers and Records Measure 1978

In section 20 of the Parochial Registers and Records Measure 1978 (searches of certain register books) at the end there shall be inserted the following subsection—

- “(6) This section shall so far as applicable and with the necessary modifications, apply in relation to the custody or deposit of register books of baptisms, burials

or marriages provided for any cathedral or collegiate church or any other church or chapel which does not belong to a parish.”.

11 Amendment of Pastoral Measure 1983

The Pastoral Measure 1983 shall have effect subject to the following amendments —

- (a) in section 9 (confirmation of schemes by Order in Council) in subsection (4) after paragraph (d) there shall be inserted the word “or” and the following paragraphs—
 - “(e) no person has duly made written representations with respect to the draft scheme; or
 - (f) written representations with respect to the draft scheme have been duly made but it has not been practicable to serve any notice under subsection (1)(a).”;
- (b) in section 44 (appointment of Churches Conservation Trust) in subsection (5) after paragraph (a) there shall be inserted the following paragraph—
 - “(aa) to acquire property (including rights of way) where the Trust considers that to do so would assist it in the exercise of its powers under paragraph (a).”;
- (c) in section 51 (contents of redundancy schemes) in subsection (9) for the words from “being a church” to “in the case of that church” there shall be substituted the words “and the Commissioners are satisfied that a new church or place of worship is to be provided in the area of the benefice in which the first-mentioned church is situated to take the place of that church”;
- (d) in section 87 (general interpretation) at the end there shall be inserted the following subsection—
 - “(5) Any reference in this Measure to the demolition of a building shall be construed as including a reference to the demolition of part thereof.”;
- (e) in Schedule 1 (constitution and procedure of the pastoral committee of a diocese) in paragraph 3 after the words “suffragan bishop in the diocese” there shall be inserted the words “(not being a suffragan bishop appointed to act as a provincial episcopal visitor for the purposes of the Episcopal Ministry Act of Synod 1993)”.

12 Amendment of Church of England (Miscellaneous Provisions) Measure 1983

In section 8 of the Church of England (Miscellaneous Provisions) Measure 1983 (discharge of certain functions of bishop)—

- (a) in subsection (1)(a) after the words “from his diocese” there shall be inserted the words “or by reason of his forthcoming translation to another see”;
- (b) in subsection (2) the words “which shall not be longer than six months” shall be omitted.

13 Amendment of Care of Churches and Ecclesiastical Jurisdiction Measure 1991

In section 6 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (provisions relating to trees in churchyards)—

- (a) in subsection (1) for the word “churchyards” there shall be substituted the words “a churchyard which the council is liable to maintain”;
- (b) in subsection (2)—

- (i) for the words “maintainable by a parochial church council” there shall be substituted the words “which a parochial church council is liable to maintain”;
- (ii) for the words “maintainable by the council” there shall be substituted the words “which the council is liable to maintain”.

14 Amendment of various enactments in connection with General Synod procedure

In the following enactments, that is to say —

- section 6(4A) of the Clergy Pensions (Amendment) Measure 1972;
- sections 2(3) and 6(4) of the Ecclesiastical Fees Measure 1986;
- section 38(5) of the Patronage (Benefices) Measure 1986;
- section 27(3) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991;
- section 9(5) of the Incumbents (Vacation of Benefices) (Amendment) Measure 1993;

in paragraph (b) in each case the words from “and at least” to the end of that paragraph shall be omitted.

15 Short title, commencement and extent

- (1) This Measure may be cited as the Church of England (Miscellaneous Provisions) Measure 1995.
- (2) This Measure shall come into force on such date as the Archbishops of Canterbury and York may jointly appoint; and different dates may be appointed for different provisions.
- (3) Subject to subsections (4) and (5) below this Measure shall extend to the whole of the provinces of Canterbury and York, except the Channel Islands and the Isle of Man.
- (4) This Measure (except section 2) may be applied to the Channel Islands, as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either of them, in accordance with those Measures.
- (5) Sections 6 and 8 above shall extend to the Isle of Man and, if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, the remainder of this Measure except sections 2 and 5 shall extend to the Isle of Man subject to such modifications, if any, as may be specified in such Act of Tynwald or other instrument.

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SCHEDULE

AMENDMENT OF CHURCH FUNDS INVESTMENT MEASURE 1958

- 1 The Scheme contained in the Schedule to the Church Funds Investment Measure
1958 shall be amended as follows.
- 2 In paragraph 1 (definitions)—
- (a) after the definition of “Diocesan Authority” there shall be inserted the
following definition—
- ““Dividend Record Date” means, as regards any Investment Fund,
a valuation date on which the income of that Investment Fund is
allocated for distribution or accumulation in accordance with this
Scheme;”;
- (b) after the definition of “The Holder of a Share” there shall be inserted the
following definition—
- ““Income Reserve” means an Income Reserve created under sub-
paragraph (4) of paragraph 11 hereof;”;
- (c) in the definition of “The Measure” for the figure “1957” there shall be
substituted the figure “1958”.
- 3 In paragraph 6 (shares in Investment Funds) —
- (a) for sub-paragraph (1) there shall be substituted the following sub-
paragraphs—
- “(1) For convenience in recording the respective interests of the
Holders of the Contributing Funds in an Investment Fund each
Investment Fund shall comprise Shares of either or both of two
classes, namely —
- (a) Income Shares, in respect of which attributable income
shall be distributed or retained (or both distributed and
retained) in the Income Reserve in accordance with this
Scheme; and
- (b) Accumulation Shares, in respect of which attributable
income shall be accumulated by investment as capital of
the Investment Fund in accordance with this Scheme.
- (1A) Where an Investment Fund comprises both Income Shares and
Accumulation Shares, each class of Shares shall be referable to one
of two parts of the value of the Investment Fund.
- (1B) Each Income Share shall represent an equal undivided part of the
beneficial interest in the Investment Fund or, as the case may be,
that part of the value of the Investment Fund to which Income
Shares are referable.

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(1C) Each Accumulation Share shall represent an equal undivided part of the beneficial interest in the Investment Fund or, as the case may be, that part of the value of the Investment Fund to which Accumulation Shares are referable.

(1D) Such Shares shall be recorded in the names of the Holders for the time being of the Contributing Funds in books to be kept for that purpose by the Central Board. The number of Shares so recorded may comprise decimal parts of a Share to two places of decimals and reference in this Scheme to a number of Shares shall be construed as including references to a number which comprises such decimal parts.”;

(b) after sub-paragraph (3) there shall be inserted the following sub-paragraph

—
“(3A) The Central Board may at any time sub-divide the Shares of either class.”.

4 In paragraph 7 (initial contributions: division into Shares)—

- (a) after the words “number of Shares” there shall be inserted the words “of each class”;
- (b) after the words “Such Shares” there shall be inserted the words “shall be denominated as Income Shares or as Accumulation Shares and the number of such Shares”.

5 In paragraph 8 (subsequent contributions and withdrawals)—

- (a) in sub-paragraph (1)—
 - (i) for the words “one or more complete Shares” there shall be substituted the words “a number of Shares of either or both classes”;
 - (ii) after the words “number of Shares” there shall be inserted the words “of the relevant class or classes”;
- (b) in sub-paragraph (2) after the words “value of the” there shall be inserted the word “relevant”;
- (c) in sub-paragraph (3)—
 - (i) after the words “Holder of Shares” there shall be inserted the words “of either class”;
 - (ii) after the words “basic value of the Share or Shares” there shall be inserted the words “of either class”;
 - (iii) after the words “basic value of a Share” there shall be inserted the words “of the class concerned”;
 - (iv) after the words “Investment fund the number of Shares” there shall be inserted the words “of the class concerned”;
 - (v) after the words “and the number of Shares” there shall be inserted the words “of the class concerned”;
 - (vi) after the words “reduced by the number of” there shall be inserted the word “such”;
- (d) in sub-paragraph (5) —
 - (i) after the word “Shares” there shall be inserted the words “of each class”;

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(ii) after the words “amount per Share” in both places where they occur there shall be inserted the words “of the same class”.

6 After paragraph 8 there shall be inserted the following paragraph—

“CONVERSION

8A Where an Investment Fund comprises two classes of Shares and subject to compliance with such conditions as the Central Board may from time to time prescribe with regard to the notice to be given on conversion, the Central Board shall at the request of the Holder of any Share in an Investment Fund at any valuation date convert such number of Shares of either class recorded as held by the Holder as the Holder may require into Shares of the other class, being Shares which on that valuation date are of the basic value determined in accordance with this Scheme as nearly as possible equal to the basic value so determined of the Shares being converted. The proportion of the value of the Investment Fund attributable to each class of Shares shall immediately after that valuation date be adjusted accordingly.”.

7 In paragraph 9 (valuations) —

- (a) in sub-paragraph (1) —
- (i) after the words “Investment Fund” there shall be inserted the words “and each class of Shares therein”;
 - (ii) for the words “in advance each valuation date” there shall be substituted the words “the frequency of valuation dates”;
 - (iii) for the words “to be valued on that date” there shall be substituted the word “concerned”;
- (b) in sub-paragraph (2) —
- (i) after the words “of an Investment Fund” there shall be inserted the words “or of either class of Share therein”;
 - (ii) for the words “on the valuation date as published in relation to the relevant Stock Exchange” there shall be substituted the words “on the relevant Stock Exchange on the valuation date”;
 - (iii) for the words “no published price” there shall be substituted the words “no such price available”;
 - (iv) for the words “there is a published price” there shall be substituted the words “such price is available”;
- (c) after sub-paragraph (2) there shall be inserted the following sub- paragraph —
- “(2A) The amount of the Income Reserve referred to in sub-paragraph (4) of paragraph 11 hereof shall be included in that part of the value of the Investment Fund that is attributable to Income Shares only and shall be available for distribution to Holders of Income Shares only.”;
- (d) for sub-paragraph (3) there shall be substituted the following sub-paragraph—
- “(3) On any valuation date, the basic value of a Share of either class shall be arrived at by —

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- (a) calculating the value of the Investment Fund or, where there are two classes of Shares, that part of the value of the Investment Fund attributable to Shares of the class concerned on the basis —
 - (i) that the value of the Investment Fund, excluding the amount of the Income Reserve, shall be apportioned between the two classes of Share in the same proportion as they bore to each other immediately after the previous valuation date, subject only, in the case of a valuation date which is also a Dividend Record Date, to adjustment for any income determined to be distributed or transferred to the Income Reserve or accumulated; and
 - (ii) that the amount of the Income Reserve shall be dealt with in accordance with sub-paragraph (2A) above ;
- (b) dividing the same by the number of Shares of the class concerned into which the Investment Fund is divided; and
- (c) rounding off the resulting figure to the nearest 0.01p.”.

8 In paragraph 10 (certificates as to value) —

- (a) after the words “of an Investment Fund” there shall be inserted the words “or of either class of Shares therein”;
- (b) after the words “of a Share” there shall be inserted the words “of either class”.

9 In paragraph 11 (income) —

- (a) in sub-paragraph (2) at the end there shall be inserted the words “(in respect of Income Shares) and for allocation (in respect of Accumulation Shares) in accordance with sub-paragraphs (5) and (6) of this paragraph”;
- (b) for sub-paragraph (3) there shall be substituted the following sub-paragraphs —

“(3) In respect of each Dividend Record Date the Central Board shall determine the amount of the income and the apportionment of it between Income and Accumulation Shares in accordance with the relative proportion in terms of value that each class of Share bears to the total value of that Investment Fund (excluding the amount of the Income Reserve) on the Dividend Record Date before the issue or cancellation of Shares (if any) and subject to sub- paragraph (4) (d) of this paragraph.

(4) (a)

For the purpose of avoiding fluctuations in the amounts of income distributed in respect of Income Shares, the Central Board may create out of the income attributable to Income Shares and maintain in the accounts of the Investment Fund an Income Reserve in accordance with the provisions of this sub-paragraph.

- (b) The Central Board may deduct from the amount of income determined to be available to be distributed in respect of Income Shares under sub- paragraph (7) of this paragraph

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- for any distribution period not more than half of that amount; and where they do so they shall credit to the Income Reserve the amount deducted.
- (c) The Central Board may add to the net income to be distributed in respect of Income Shares all or any part of the amount of the Income Reserve.
- (d) Any income attributable to the amount of the Income Reserve shall be treated as income of the Income Shares and dealt with accordingly.
- (5) Each distribution of income attributable to Income Shares shall be made as soon as practicable after the Dividend Record Date in question to the Holders of the Income Shares in proportion to the numbers of such Shares recorded in their names on that Dividend Record Date (before the recording of any new contribution or withdrawals on such Dividend Record Date) and the amount determined to be distributed but not yet withdrawn from the Investment Fund (but not the amount determined to be transferred to the Income Reserve) shall be treated as a charge on the Investment Fund and shall accordingly be deducted in arriving at the value of the Investment Fund on and after that Dividend Record Date.
- (6) Each allocation of income attributable to Accumulation Shares shall be made on or as soon as practicable after the Dividend Record Date in question and as of that Dividend Record Date shall become capital and shall be retained as part of the Investment Fund.
- (7) The amounts available for distribution or allocation under subparagraphs (5) or (6) of this paragraph shall be circulated by the Central Board adjusting the income of an Investment Fund by —
- (i) adding the aggregate amount of the Income Element (as hereinafter determined) included in contributions to the Investment Fund on the issue of Shares during the distribution period concerned;
 - (ii) subtracting the aggregate amount of the Income Element included in the amounts paid during such distribution period on the withdrawal of Shares by the Holders; and
 - (iii) subtracting the aggregate amount of costs and expenses for the distribution period to be deducted in accordance with this Scheme.

For the purpose of this sub-paragraph, the Income Element included in an issue of Shares means that element of the amount of cash or value of other assets transferred to the Investment Fund which for the purpose of securing equality of treatment between the Holders of Shares falls to be treated by the Central Board as income of the Investment Fund for the distribution period within which such issue of Shares takes effect; and the Income Element included in the amount payable on a withdrawal of Shares means that element of the amount of cash paid (or value of the assets transferred) on a withdrawal which falls to be treated by the Central Board as a payment out of the income of the Investment Fund for

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the distribution period within which occurs the valuation date on or as of which the Shares are withdrawn.”

- 10 In paragraph 12 (costs and expenses) for the words “retain out of” there shall be substituted the words “deduct from”.
- 11 In paragraph 14 (accounts and information) —
- (a) after the words “the amount per” there shall be inserted the word “Income”;
 - (b) after the words “distribute as income” there shall be inserted the words “and the amount of income per Accumulation Share which the Central Board had as on that date determined to allocate”;
 - (c) after the words “determined to distribute” there shall be inserted the words “or allocate”;
 - (d) after the words “pursuant to” there shall be inserted the words “sub-paragraphs (1) and (2) of”.
- 12 In paragraph 16 (holding of investments) the words “trust corporation as” shall be omitted.
- 13 In paragraph 18 (winding up of an Investment Fund) for the words “in proportion to their holdings of such Shares” there shall be substituted the words “(without prejudice to sub-paragraph (3) of paragraph 9 hereof) in proportion to the value of the Investment Fund represented by the Shares held by each such Holder”.