



# Mission and Pastoral Measure 2011

2011 No. 3

## PART 5

### CONTENTS AND EFFECT OF PASTORAL SCHEMES AND ORDERS

#### *Other provisions as to clergy and ministry*

#### **37 Status and duties of new benefices**

- (1) Where a pastoral scheme provides for the union of two or more benefices one of which is a rectory, the new benefice created by the union shall be a rectory.
- (2) Where a pastoral scheme provides for the dissolution of a rectory, otherwise than as a result of a union of benefices, any new benefice created in consequence of the dissolution shall, if the scheme so provides, be a rectory.
- (3) Subject to subsections (1) and (2), and except in the case of a benefice for which a team ministry is established, every new benefice created by a pastoral scheme shall be a vicarage.
- (4) Any question under this section whether a benefice is or was a rectory shall be determined by the Commissioners.
- (5) The rector or vicar of a new benefice created by a pastoral scheme shall have the exclusive cure of souls in the area of the benefice, subject to the rights of the bishop of the diocese and, if there is a team or group ministry established for the benefice, to the rights and duties of the other members of the team or group, and shall accordingly have all the rights and duties appertaining to a benefice with cure of souls, and shall be a corporation sole.
- (6) Where any office attaches to a benefice which is united with any other benefice or benefices by a pastoral scheme, that office shall attach to the new benefice created by the union unless the scheme otherwise provides.

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**Commencement Information**

**11** S. 37 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**38 Designation, selection and admission of certain incumbents**

- (1) A pastoral scheme providing for the creation of a new benefice may provide for the designation or selection of the first incumbent of the new benefice and of the incumbent of any benefice concerned which falls vacant before the new benefice comes into being, and for restricting rights of presentation on any such vacancy.
- (2) A pastoral scheme providing for the transfer, under section 31(1)(c), of a parish from one benefice to another may, if there is a vacancy in the office of incumbent in the benefice to which the parish is transferred at the time when the transfer takes effect, provide for the designation or selection of the incumbent of that benefice and for restricting rights of presentation on the vacancy.
- (3) A pastoral scheme providing for the holding of two or more benefices in plurality may provide for the designation or selection of the incumbent who is to hold all the benefices concerned and of the incumbent of any such benefice falling vacant before all the said benefices come to be held in plurality, and for restricting rights of presentation on any such vacancy.
- (4) Subsections (1), (2) and (3) shall not apply for the first rector of a team ministry or the first incumbent of a benefice in a group ministry to whom sections 34(4) and 35(3) respectively apply.
- (5) Paragraph 5 of Schedule 3 shall apply with respect to the admission and induction of incumbents of benefices created or affected by pastoral schemes in accordance with the provisions of that paragraph.

**Commencement Information**

**12** S. 38 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**39 Operation of schemes dispossessing clergy or dissolving archdeaconries or deaneries**

- (1) A provision of a pastoral scheme which dissolves any benefice, archdeaconry or deanery or abolishes or results in the abolition of any office of vicar in a team ministry [<sup>F1</sup>or any other ecclesiastical office held under Common Tenure] may be brought into operation without the assent of the incumbent, archdeacon, rural dean [<sup>F1</sup>or other office holder] and without waiting for a vacancy in the benefice, archdeaconry, deanery or office.
- (2) If, on the date of the coming into operation of any provision of a pastoral scheme—
  - (a) for the holding of benefices in plurality, or
  - (b) for the establishment of a team ministry for the area of a benefice, or
  - (c) for the establishment of a group ministry for a group of benefices;
 any of the benefices concerned, or the benefice concerned, is not vacant, and the existing incumbent is not to hold the benefice by virtue of a designation by the scheme

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or any appointment under the scheme or this Measure, the benefice shall be deemed to be vacated on the said date.

- (3) A pastoral scheme any provision of which will or may have the effect of vacating a benefice under subsection (2) or of dissolving a benefice or archdeaconry which is not already vacant or of abolishing the office of a vicar in a team ministry [<sup>F2</sup>or any other ecclesiastical office held under Common Tenure]<sup>F3</sup> which is not already vacant [<sup>F3</sup>, where the holder of the office is entitled to receive a stipend or other emoluments of office including the provision of accommodation, ] shall provide that the provision is not to come into operation until a date at least six months after the date on which the scheme is made under this Measure or, if the operation thereof is dependent on the happening of any event or contingency (other than a vacancy in the office concerned), until a date at least six months after that happening: Provided that—
- (a) this subsection shall not apply to a benefice which is dissolved if the incumbent of that benefice is designated by the scheme as the first incumbent of any benefice created or affected by the scheme or as the first holder of any office of vicar in a team ministry established by the scheme, nor shall it apply to an office of vicar in a team ministry which is abolished if the holder of that office is designated by the scheme as the first incumbent of any benefice created or affected by the scheme or as the first holder of any office of vicar in a team ministry established by the scheme;
- (b) the scheme may provide that if, owing to a subsequent vacancy, any such provision will not have the effect mentioned in paragraph (a), it shall come into operation either on the date of confirmation of the scheme or the happening of the event or contingency or on the vacancy, whichever last occurs.
- (4) If, on the coming into operation of any provision to which subsection (3) applies, the official residence of the incumbent, archdeacon [<sup>F4</sup>or other office holder] concerned, being the parsonage house or the house held on trust for use as such a residence, is not vested in the diocesan board of finance, the said board shall have a right to take proceedings to recover possession of the residence.

#### Textual Amendments

- F1** Words inserted (1.7.2012) and words after "rural dean" substituted by [The Ecclesiastical Offices \(Terms of Service\) \(Consequential Provisions\) Order 2012 \(S.I. 2012/992\)](#), arts. 1(2), 2, **Sch. para. 2(a)**
- F2** Words inserted (1.7.2012) by [The Ecclesiastical Offices \(Terms of Service\) \(Consequential Provisions\) Order 2012 \(S.I. 2012/992\)](#), arts. 1(2), 2, **Sch. para. 2(b)**
- F3** Words inserted (6.8.2014) by [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), s. 21(2), **Sch. 2 para. 19(5)**; S.I. 2014/2077, art. 2(1) (with Sch. para. 6(2))
- F4** Words substituted (1.7.2012) by [The Ecclesiastical Offices \(Terms of Service\) \(Consequential Provisions\) Order 2012 \(S.I. 2012/992\)](#), arts. 1(2), 2, **Sch. para. 2(c)**

#### Commencement Information

- I3** S. 39 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

#### [<sup>F5</sup>40 Compensation of office-holders

Schedule 4 (which confers rights to compensation on holders of ecclesiastical office who are subject to Common Tenure and incumbents and archdeacons who are not) has effect.]

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**Changes to legislation:** There are currently no known outstanding effects for the Mission and Pastoral Measure 2011, Cross Heading: Other provisions as to clergy and ministry. (See end of Document for details)

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#### Textual Amendments

- F5** S. 40 substituted (1.7.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 6(1), 14(3)**; [S.I. 2018/722](#), art. 2(a) (with Sch. para. 3)

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