Church of England (Miscellaneous Provisions) Measure 2018

2018 No. 7

A Measure passed by the General Synod of the Church of England to make miscellaneous provision relating to matters concerning the Church of England. [20th December 2018]

The Church Commissioners

1 Power to make grants to Archbishops' Council

The Church Commissioners may make grants out of their general fund to the Archbishops' Council for the purposes of the Council's functions.

Commencement Information
I1 S. 1 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(a)**

2 Land registration: disposals of church land

(1) Where immediately before the commencement of this section an individual register of title contains an inhibition reflecting the requirement of section 99 of the Land Registration Act 1925 (Church Commissioners' certificate), the proprietor of the title may apply for the inhibition to be replaced with a restriction in Form D in Schedule 4 to the Land Registration Rules 2003 (S.I. 2003/1417) (as amended or replaced from time to time).

(2) In that Schedule, for Form D (dispositions of church land etc.) substitute—
"**Form D (parsonage, diocesan glebe, church or churchyard land)**

No disposition of the registered estate is to be registered unless the instrument giving effect to the disposition contains either certificate (a) or certificate (b)—

(a) the disposition [*choose one of the bulleted clauses*]

Status: *Point in time view as at 01/09/2020.*
Changes to legislation: *There are currently no known outstanding effects for the Church of England (Miscellaneous Provisions) Measure 2018. (See end of Document for details)*

is made in accordance with the Parsonages Measure 1938;

is made in accordance with section 14 of the New Parishes Measure 1943;

is made in accordance with section 17 of the New Parishes Measure 1943;

is made in accordance with the Endowments and Glebe Measure 1976;

falls within section 117(3)(a) of the Charities Act 2011;

is made under the authority of a faculty granted under the common law power referred to in *In re St. Mary Magdalene's Paddington* 1980 Fam.99;

is made in accordance with [*specify other Act, Measure or authority*];

(b) the Church Commissioners are a party to the instrument and have applied their seal to it."

(3) The reference in subsection (1) to the proprietor of the title is a reference to—

(a) the registered proprietor of the title, or

(b) a person entitled to be registered as the proprietor of the title.

(4) An application under subsection (1)—

(a) must be made to the Chief Land Registrar,

(b) must specify the title number to which the application relates,

(c) must specify the form of the restriction sought and explain why the applicant considers that to be the appropriate form of restriction to apply, and

(d) where the applicant is not the registered proprietor but is entitled to be such, must be accompanied by evidence to satisfy the Chief Land Registrar of that entitlement.

(5) No fee may be charged for an application under subsection (1).

(6) If the application is in order, the Chief Land Registrar must make the replacement sought.

(7) In rule 93 of the Land Registration Rules 2003 (persons having sufficient interest to apply for restriction), in paragraph (g), after "applying for a restriction" insert " in Form D ".

(8) The amendments made by this section to the Land Registration Rules 2003 do not affect the power to make further rules amending or revoking the provision made by those amendments.

Church services

3 Marriage: licensing chapel during suspension period in benefice

In section 20 of the Marriage Act 1949 (licensing public chapel for publication of banns and solemnization of marriages), after subsection (7) insert—

"(7A) In the case of a benefice to which a suspension period within the meaning of the Mission and Pastoral Measure 2011 applies and for which a priest in charge has been appointed, this section has effect as if each reference to the incumbent were a reference to the priest in charge."

Commencement Information

I2 S. 3 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(b)**

4 Funerals: conduct

(1) A clerk in Holy Orders who is authorised to officiate in accordance with the Canons of the Church of England may perform a funeral service in a crematorium, cemetery or other place which is not a church or churchyard, and in which the clerk would not otherwise be entitled to perform the service, if—

(a) the persons concerned have asked the clerk to perform the service, and

(b) the clerk has, so far as practicable, informed the relevant minister and sought his or her goodwill.

[[F1](1A) A duly authorised deaconess, reader or lay worker (a "lay office-holder") may, with the consent of the incumbent or priest-in-charge of the benefice or parish to which the lay office-holder is licensed, perform a funeral service in a crematorium, cemetery or other place which is not a church or churchyard, and in which the lay office-holder would not otherwise be entitled to perform the service, if—

(a) the persons concerned have asked the lay office-holder to perform the service, and

(b) the lay office-holder has, so far as practicable, informed the relevant minister and sought his or her goodwill.

(1B) The reference in subsection (1A) to the incumbent or priest-in-charge of the benefice or parish is, where there is no such person, to be read as a reference to the rural dean of the deanery in which the benefice or parish is situated.**]**

(2) The "relevant minister" is—

(a) the minister of the parish on whose electoral roll the deceased's name was entered, or

(b) if the deceased's name was not entered on the electoral roll of a parish or the persons concerned do not know whether it was, the minister of the parish which included the deceased's usual place of residence.

(3) The performance of a funeral service in accordance with subsection (1) **[**[F2]or (1A)**]** does not require the consent, and is not subject to the control, of the minister of the parish in which the service is performed.

(4) In **[**[F3]subsections (1) and (1A)**]**, "church" and "churchyard" each have the same meaning as they have in relation to a funeral service in the Ecclesiastical Fees Measure 1986 (see section 10 of that Measure).

(5) In section 2 of the Church of England (Miscellaneous Provisions) Measure 1992 (conduct of funeral services), in subsection (2), after "may perform" insert " or arrange the performance of ".

(6) In subsection (4) of that section, after "be under the same obligation" insert " (subject to subsection (4A)) ".

(7) After that subsection insert—

"(4A) Each of the following may perform a funeral service under an arrangement made under subsection (2) or (4)—

(a) a clerk in Holy Orders who is authorised to officiate in accordance with the Canons of the Church of England;

(b) a duly authorised deaconess, reader or lay worker."

(8) The first rubric at the beginning of the Order for the Burial of the Dead in the Book of Common Prayer (which notes that the Order may not be used if the deceased is unbaptised, excommunicate or a suicide of sound mind) is omitted.

Textual Amendments

F1 S. 4(1A)(1B) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 3(1)**, 16(3); S.I. 2020/835, art. 2

F2 Words in s. 4(3) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 3(2)**, 16(3); S.I. 2020/835, art. 2

F3 Words in s. 4(4) substituted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 3(3)**, 16(3); S.I. 2020/835, art. 2

Commencement Information

I3 S. 4(1)-(7) in force at 1.5.2019 by S.I. 2019/67, **art. 3(a)**

I4 S. 4(8) in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(c)**

Ecclesiastical offices

5 Bishops: delegation of functions to other bishops

It is hereby declared for the avoidance of doubt that the bishop of a diocese may, by virtue of the jurisdiction as Ordinary under Canon C 18, commit to another bishop of the Church of England the exercise of a function which is not conferred or imposed by or under an Act of Parliament or Measure.

Commencement Information

I5 S. 5 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(d)**

6 Terms of service

(1) In section 1 of the Ecclesiastical Offices (Age Limit) Measure 1975 (age limit for appointment to certain ecclesiastical offices), after subsection (3A) insert—

"(3B) Neither subsection (1) nor subsection (3) shall apply to an office held under a contract of employment."

(2) In the Bishops (Retirement) Measure 1986, in section 1 (resignation of bishop), in subsection (2), after "sections 1(3) and 3 of the Ecclesiastical Offices (Age Limit) Measure 1975" insert " or regulation 29A of the Ecclesiastical Offices (Terms of Service) Regulations 2009 ".

(3) In section 2 of that Measure (retirement of bishop on reaching age-limit)—

(a) in subsection (1), after "section 3(1) of that Measure" insert " or regulation 29A of the Ecclesiastical Offices (Terms of Service) Regulations 2009 ",

(b) in subsection (2)(a), after "section 3(1) of the Ecclesiastical Offices (Age Limit) Measure 1975" insert " or regulation 29A of the Ecclesiastical Offices (Terms of Service) Regulations 2009 ", and

(c) in subsection (2)(b), after "that section" insert " or regulation ".

(4) For section 11 of the Church of England (Miscellaneous Provisions) Measure 1992 substitute—

"**11 Resignation of incumbents**

(1) Where the incumbent of a benefice wishes to tender resignation, it is not necessary to proceed by way of deed.

(2) An incumbent who does not hold office under common tenure may tender resignation by giving at least three months' written notice to that effect to the bishop of the diocese.

(3) The requirement to give notice under subsection (2) may be waived by agreement between the incumbent and the bishop.

(4) For the provision that applies in the case of an incumbent who holds office under common tenure, see section 3 of the Ecclesiastical Offices (Terms of Service) Measure 2009 (which requires the bishop to be given three months' written notice)."

(5) In consequence of subsection (4), Schedule 2 to the Church of England (Miscellaneous Provisions) Measure 1992 (form for resignation by incumbent) is repealed.

(6) In section 1 of the Ecclesiastical Offices (Terms of Service) Measure 2009, after subsection (1) insert—

"(1A) The reference in subsection (1)(h) to emoluments of office does not include a reference to fees which, pursuant to a decision of the Diocesan Board of Finance, have been paid to a deaconess, reader or lay worker in respect of a matter set out in Schedule A1 to the Ecclesiastical Fees Measure 1986."

(7) In section 2 of that Measure (regulations), after subsection (2) insert—

"(2A) Regulations may provide for the exercise of a discretion."

(8) In section 3 of that Measure (duration of appointments), in subsection (3)(b), after "section 2 or 3 of that Measure" insert " or in provision made by regulations under section 2 of this Measure ".

(9) In regulation 5 of the Ecclesiastical Offices (Terms of Service) Regulations 2009 (S.I. 2009/2108) (note in statement of particulars), omit paragraph (3) (which relates to pensions and contracted-out employment).

(10) For regulation 23 of those Regulations substitute—

Status: *Point in time view as at 01/09/2020.*
Changes to legislation: *There are currently no known outstanding effects for the Church of England (Miscellaneous Provisions) Measure 2018. (See end of Document for details)*

"23 **Maternity, parental, adoption etc. leave and time off for carers**

(1) An office holder is entitled to maternity, paternity, parental, adoption or shared parental leave for the same periods and subject to the same conditions as for the time being apply in the case of an employee under the Employment Rights Act 1996 or regulations made under it.

(2) Before exercising an entitlement under paragraph (1), an office holder must, in consultation with a responsible person or authority, use all reasonable endeavours to make arrangements for the duties of the office to be performed by one or more other persons during the period of leave.

(3) An office holder may request the appropriate authority to give him or her time off work or to make adjustments to the duties of the office to allow him or her to care for a dependant; and for this purpose, "the appropriate authority" is—

(a) unless the office holder holds office in a cathedral, the bishop of the diocese;

(b) if the office holder is the dean of a cathedral, the bishop of the diocese;

(c) if the office holder holds another office in a cathedral, the dean of the cathedral.

(4) A request under paragraph (3) must be in writing; and the Archbishops' Council may impose other conditions as to the manner in which the request is to be made, including as to the supply of information with the request.

(5) The appropriate authority must consider a request under paragraph (3); and when doing so in the case of an office holder who does not hold office in a cathedral, it must consult the parochial church council of each parish belonging to the benefice concerned.

(6) Where the appropriate authority decides to grant a request under paragraph (3), it may—

(a) give such time off work or make such adjustments to the duties of the office as appear to it to be reasonable, and

(b) impose reasonable conditions on the grant of the request, including appropriate variations in the stipend which would otherwise be payable to the office holder.

(7) In this regulation—

"dependant", in relation to an office-holder, means any person who would, if the office-holder were an employee for the purposes of the Employment Rights Act 1996, be a dependant within the meaning of section 57A of that Act, and

"shared parental leave" means leave under section 75E or 75G of that Act."

(11) In consequence of subsection (10), the following are revoked—

(a) the Ecclesiastical Offices (Terms of Service) Directions 2010 (S.I. 2010/1923);

(b) the Ecclesiastical Offices (Terms of Service) (Amendment) Directions 2015 (S.I. 2015/1612).

(12) The amendments made by subsections (2), (3), (7) and (8) are to be treated as having always had effect.

(13) Section 2 of the Ecclesiastical Offices (Terms of Service) Measure 2009 is to be regarded as having always, until the commencement of subsections (10) and (11) of this section, enabled regulations under that section to confer power on the Archbishops' Council to make directions and to enable directions made under that power to provide for the exercise of a discretion.

(14) The amendment made by subsection (10) does not affect the power to make further regulations amending or revoking the provision made by that amendment.

(15) Section 13 of the Mission and Pastoral etc. (Amendment) Measure 2018 (which makes redundant provision about appointments after retirement age) is repealed.

Commencement Information

I6 S. 6(2)(3)(7)(8)(12) in force at Royal Assent, see. s. 17(2)(b)

I7 S. 6(1)(4)-(6)(9)-(11)(13)-(15) in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(e)**

Ecclesiastical jurisdiction

7 Provincial courts: decisions to be treated as taken by each Court

(1) After section 14 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, insert—

"**14A Decisions treated as taken by each Court**

(1) A decision of the Arches Court of Canterbury or the Chancery Court of York is to be treated by the other Court, and by the lower ecclesiastical courts in the province of the other Court, as if it were a decision which the other Court had itself taken.

(2) The reference to a decision of the Arches Court of Canterbury or the Chancery Court of York is a reference to a decision taken by it in the exercise of—

(a) its jurisdiction under section 14(1), (2) or (3), or

(b) its jurisdiction under section 7 of the Ecclesiastical Jurisdiction Measure 1963 (disciplinary jurisdiction).

(3) "Lower ecclesiastical court", in relation to a province, means—

(a) the Vicar-General's court of the province (including as constituted in accordance with the Clergy Discipline Measure 2003),

(b) the consistory court for a diocese in the province, or

(c) a disciplinary tribunal within the province."

(2) In section 7 of the Ecclesiastical Jurisdiction Measure 1963 (Arches Court and Chancery Court: disciplinary jurisdiction), after subsection (3) insert—

"(3A) For provision as to how a decision of either of those Courts in the exercise of its jurisdiction under this section is to be treated in the province of the other

Court, see section 14A of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018."

(3) This section applies to a decision of the Arches Court of Canterbury or the Chancery Court of York made before the commencement of this section (as well as to a decision made afterwards).

Commencement Information

I8 S. 7 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(f)**

8 Fees

(1) In section 1 of the Ecclesiastical Fees Measure 1986 (parochial fees orders), in subsection (1), for "licensed" substitute " authorised ".

(2) After subsection (1) of that section insert—

"(1A) Subsection (1) does not apply to matters which relate to duties carried out in the course of employment by a university, college, school, hospital or public or charitable institution."

(3) In the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 ("the 2018 Measure"), in section 84 (Fees Advisory Commission: continuation and membership), in subsection (2), for paragraph (a) substitute—

"(a) one person who is a diocesan or suffragan bishop nominated by the House of Bishops (regardless of whether that person is a member of that House);".

(4) In section 85 of the 2018 Measure (Fees Advisory Commission: procedure), after subsection (5) insert—

"(5A) If the chair of the Commission considers that it has business which can properly be conducted by correspondence, the chair may arrange for written proposals requiring the Commission's approval to be circulated to members.

(5B) Unless objection is received from members in such numbers and within such period from the date on which they were sent as the Commission may specify, the proposals are to be treated on the expiry of that period as approved by the Commission as if they had been approved at a duly convened meeting.

(5C) The Commission may delegate to the chair the approval of any matter which requires decision and which, because of its urgency, cannot be dealt with at a meeting of the Commission or by correspondence as mentioned in subsection (5A).

(5D) A delegation under subsection (5C)—

(a) may be general or specific, and

(b) is subject to such conditions as the Commission may from time to time impose."

(5) In section 86 of the 2018 Measure (fees orders), after subsection (4) insert—

"(4A) An order under this section may provide for a fee, or a matter relating to the payment of a fee, to be determined—

(a) by a court, ecclesiastical judge, legal officer or other person;
(b) by reference to provision made under an Act of Parliament."

(6) The amendment made by subsection (5) is to be regarded as having always had effect; and section 5 of the Ecclesiastical Fees Measure 1986 is to be regarded as having always, until its consolidation as section 86 of the 2018 Measure, conferred power to make provision by order for a fee, or a matter relating to the payment of a fee, to be determined by a court, judge or other person or by reference to provision made under an Act of Parliament.

Commencement Information

I9 S. 8(5)(6) in force at Royal Assent, see. s. 17(2)(b)
I10 S. 8(1)(3)(4) in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(g)**
I11 S. 8(2) in force at 1.5.2019 by S.I. 2019/67, **art. 3(b)**

General Synod

9 Timing of sessions and membership of House committees

(1) The Constitution of the General Synod, as set out in Schedule 2 to the Synodical Government Measure 1969, is amended as follows.

(2) In Article 3 (meetings of Synod, etc.), after paragraph (1) insert—

"(1A) The General Synod may vary any provision which it has made under paragraph (1) including, in the case of provision for the Synod to meet in session, by cancelling the meeting.

(1B) The Presidents may vary any direction which they have given under paragraph (1) including, in the case of a direction for the Synod to meet in session, by cancelling the meeting.

(1C) The power of the General Synod under paragraph (1A) may be exercised on its behalf by the Presidents and Prolocutors of the Houses of the Convocations and the Prolocutor and Pro-Prolocutor of the House of Laity of the General Synod acting jointly.

(1D) The requirement under paragraph (1) for the General Synod to meet in session at least twice a year shall not apply in so far as a failure to satisfy the requirement is attributable to a cancellation under paragraph (1A) or (1B)."

(3) In Article 10 (appointment of committees), in paragraph (3), for "of their members" substitute " , which may include persons who are not members of that House, ".

(4) Each of the powers under Article 3(1) of the Constitution is to be regarded as having always, until the commencement of subsection (2), included a power to cancel a meeting which had been provided for or directed under Article 3(1); and the requirement under Article 3(1) for the Synod to meet in session at least twice a year is to be regarded as not having applied in so far as a failure to satisfy the requirement was attributable to such a cancellation.

Commencement Information

I12 S. 9(1)(2)(4) in force at Royal Assent, see. s. 17(2)(c)

I13 S. 9(3) in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(h)**

Statutory bodies: procedure

10 Legal Aid Commission: rules

(1) In section 4 of the Church of England (Legal Aid) Measure 1994 (rules), after subsection (3) insert—

"(3A) Any rules made under subsection (1) may provide for the exercise of a discretion."

(2) Subsection (1) is to be regarded as having always had effect.

(3) The Schedule (which makes amendments to the Church of England (Legal Aid) Rules 1995) has effect.

(4) The amendments made by that Schedule do not affect the power to make further rules amending or revoking the provision made by those amendments.

Commencement Information

I14 S. 10(1)(2) in force and s. 10(3)(4) in force for specified purposes at Royal Assent, see. s. 17(2)(b)(d)

I15 S. 10(3)(4) in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(i)**

11 Execution of documents

(1) In section 9 of the Church Commissioners Measure 1947 (sealing and execution of documents), after subsection (3) insert—

"(3A) A document which is signed by two officers of the Commissioners authorised by the Board for that purpose, and which is expressed (in whatever form of words) to be signed on behalf of the Commissioners, shall have the same effect as if executed under the common seal of the Commissioners.

(3B) An authorisation under subsection (3A) shall have effect subject to such limitations or conditions as may be specified in it."

(2) In subsection (5) of that section, for "signed by two members of the Board" substitute " signed in accordance with subsection (3) or (3A) ".

[F4](3) . . . . . .

(4) In Schedule 1 to the National Institutions Measure 1998 (Archbishops' Council: constitution), after paragraph 12 insert—

"12A (1) A document which is signed by two members of the Council and expressed (in whatever form of words) to be executed by the Council shall have the same effect as if executed under the seal of the Council.

(2) A document which is signed by two officers of the Council authorised by the Council for that purpose, and which is expressed (in whatever form of words) to be signed on behalf of the Council, shall have the same effect as if executed under the seal of the Council.

(3) An authorisation under sub-paragraph (2) shall have effect subject to such limitations or conditions as may be specified in it.

(4) A document executed by the Council which makes clear on its face that it is intended to be a deed has effect, upon delivery, as a deed; and it shall be presumed, unless a contrary intention is proved, to be delivered upon its being so executed.

(5) In favour of a person who in good faith acquires an interest in property for valuable consideration, a document shall be deemed to have been duly executed by the Council if it purports to be signed in accordance with sub-paragraph (1) or (2)."

(5) In section 3 of the Parochial Church Councils (Powers) Measure 1956 (status of PCC as body corporate), the first sentence of which becomes subsection (1) and the second sentence of which becomes subsection (2), at the end insert—

"(3) An instrument which is signed pursuant to a resolution of the council by two members of the council (whether or not they were present at the meeting at which the resolution was passed) and expressed (in whatever form of words) to be signed on behalf of the council, shall have the same effect as if executed under hands, or under hands and seals, as provided for in subsection (2).

(4) A document executed by the council which makes it clear on its face that it is intended to be a deed has effect, upon delivery, as a deed; and it shall be presumed, unless a contrary intention is proved, to be delivered upon its being so executed.

(5) In favour of a person who in good faith acquires an interest in property for valuable consideration, a document shall be deemed to have been duly executed by the council if it purports to be signed in accordance with subsection (3)."

(6) A provision of a Measure (whether passed before or after the commencement of this section) enabling a relevant body to make an instrument or execute a document by applying its seal is also to have effect as enabling the body to make the instrument or execute the document by having it signed in accordance with the relevant provision; and the instrument or document is accordingly to be treated as sealed on the date on which it is so signed.

(7) For the purposes of subsection (6), each of the bodies specified in the first column of the Table below is a relevant body; and the relevant provision in the case of that body is the provision specified opposite in the second column—

Relevant body	***Relevant provision***
Church Commissioners	Section 9(3) or (3A) of the Church Commissioners Measure 1947.

Church of England Pensions Board	**[**[F5]In Schedule 1 to the Church of England Pensions Measure 2018, paragraph 11(3) or (4).**]**
Archbishops' Council	In Schedule 1 to the National Institutions Measure 1998, paragraph 12A.

(8) In each of the following provisions relating to the sealing of instruments, for "comes into force when" substitute " may not come into force unless "

(a) section 6A(4) of the Parochial Church Councils (Powers) Measure 1956;

(b) section 5A(5) of the Incumbents and Churchwardens (Trusts) Measure 1964;

(c) paragraph 7(5) of Schedule 4 to the Mission and Pastoral Measure 2011;

(d) section 6(6) of the Safeguarding and Clergy Discipline Measure 2016.

(9) The amendments made by subsection (8) are to be regarded as having always had effect.

Textual Amendments

F4 S. 11(3) repealed (1.3.2019) by Church of England Pensions Measure 2018 (No. 9), s. 61(2), **Sch. 5** (with Sch. 4); S.I. 2019/98, art. 2

F5 Words in s. 11(7) substituted (1.3.2019) by Church of England Pensions Measure 2018 (No. 9), s. 61(2), **Sch. 3 para. 7**; S.I. 2019/98, art. 2

Commencement Information

I16 S. 11(8)(9) in force at Royal Assent, see. s. 17(2)(b)

I17 S. 11(1)-(7) in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(j)**

12 Delegation and casual vacancies

(1) In section 37 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (diocesan advisory committees: functions), after subsection (9) insert—

"(9A) The committee may delegate the exercise of any of its functions to an officer of the committee."

(2) In Schedule 4 to the Dioceses, Pastoral and Mission Measure 2007 (the Church Buildings Council), after paragraph 22 (but before the following cross-heading) insert—

"**Delegation to officers**

22A The Council may delegate to an officer such functions as it thinks fit."

(3) In paragraph 10 of Schedule 1 to that Measure (the Dioceses Commission: casual vacancy in office of chair or vice-chair), for "a person from among the members of the House of Clergy and House of Laity to fill the vacancy" substitute " a person to fill the vacancy in accordance with that paragraph; ".

Commencement Information

I18 S. 12 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(k)**

Charities

13 Disqualification as trustee

(1) In section 4(4) of the Cathedrals Measure 1999 (disqualification from the Chapter), after "section 178 of the Charities Act 2011" insert " or by an order under section 181A of that Act ".

(2) Subsection (1) applies in a case where a person is, immediately before the commencement of that subsection, disqualified from being a charity trustee by an order under section 181A of the Charities Act 2011 (as well as in a case where a person becomes so disqualified after that commencement).

(3) In section 2(1) of the Churchwardens Measure 2001 (disqualification as charity trustee)—

(a) after "if" insert "—

(a)",

and

(b) after "the parish concerned" insert ", or

(b) the person is disqualified from being a charity trustee by an order under section 181A of that Act."

(4) Section 8(1)(c) of that Measure (vacation of office on disqualification) applies in a case where a churchwarden is, immediately before the commencement of subsection (3), disqualified from being a charity trustee by an order under section 181A of the Charities Act 2011 (as well as in a case where a churchwarden becomes so disqualified after that commencement).

Commencement Information

I19 S. 13 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(l)**

14 Provision of services to PCC by member

(1) After section 7 of the Parochial Church Councils (Powers) Measure 1956 ("the 1956 Measure") insert—

"**7A Provision of services to council by member**

In its application to a council, section 185 of the Charities Act 2011 (remuneration of charity trustees providing services to charity) has effect as if, in subsection (3)(a), the words "or under a contract of employment" were omitted (and a council may, accordingly, enter into a contract of employment with a member or connected person under which remuneration is provided)."

(2) Section 3A of the 1956 Measure (employment of members and other contractual services) is repealed.

(3) In consequence of that repeal, section 5(2) of the Church of England (Miscellaneous Provisions) Measure 2014 (which inserted section 3A into the 1956 Measure) is repealed.

(4) The repeals in subsections (2) and (3) do not affect any contract entered into under section 3A of the 1956 Measure or any benefit (whether direct or indirect) received or yet to be received under the contract; but this subsection does not affect the application of section 16 of the Interpretation Act 1978.

Commencement Information

I20 S. 14 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(m)**

Mission and pastoral

15 Pastoral schemes and orders: notice and approval, etc.

(1) In each of sections 9(3) and 24(3) of the Mission and Pastoral Measure 2011 (schemes and orders: notice), for paragraphs (b) and (c) substitute—

"(b) to make such arrangements as are practicable, in the case of each of those churches or buildings at which one or more services are to be held in the period in which representations may be made in accordance with the notice, for announcements to be made at the service or, if there is more than one held there in that period, at as many of them as is practicable with a view to ensuring that as many of those who habitually attend public worship there as is practicable are aware of the contents of the notice."

(2) In each of sections 11(4A) and 26(5) of that Measure (proposals included in deanery plan), for the words from ", shall seal a copy" to the end substitute " and unless they consider that there are material considerations which indicate that it should not be made, shall comply with the duties imposed by subsection (2)(a) and (b); and references in this Measure to a notice under subsection (2) shall be read accordingly. "

(3) In each of sections 11(8) and 26(7) of that Measure (meaning of "deanery plan"), after "approved by the deanery synod of each deanery which would be affected by implementation of the plan" insert " and by the mission and pastoral committee ".

(4) In section 28 of that Measure (application of provisions on pastoral schemes and orders to pastoral church buildings schemes), at the end insert " ; and for that purpose, a reference in section 12 or Schedule 2 to a notice under section 11(2) includes a reference to a notice under section 26(2). "

(5) In Schedule 3 to that Measure (pastoral schemes and orders: supplementary provision), in paragraph 9 (church and parochial trusts) in sub-paragraph (10)—

(a) after "fund" insert " or ", and

(b) for "section 76" substitute " section 77 ".

Commencement Information

I21 S. 15(1)(2) in force at 1.3.2019 immediately after the provisions of Church Measure 2018 No. 4 commenced by S.I. 2019/66, art. 2 come into force by S.I. 2019/67, **art. 2(1)(n)**(2)

I22 S. 15(3)-(5) in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(n)**

16 Bishop's mission order

(1) In section 82 of the Mission and Pastoral Measure 2011 (mission initiative: supplementary provision), in subsection (6), for the words from the beginning to "any such order" substitute " An order varying a bishop's mission order ".

(2) In section 83 of that Measure (mission initiative: review etc.), in subsection (7), omit paragraph (b) (which provides that a further mission order may be made following a review only if there are no other suitable means by which the initiative or its objectives can be achieved) and the preceding "and".

Commencement Information

I23 S. 16 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(o)**

Final

17 Short title, commencement and extent

(1) This Measure may be cited as the Church of England (Miscellaneous Provisions) Measure 2018.

(2) The following provisions come into force on the day on which this Measure is passed—

(a) section 2 (Church Commissioners: land registration requirements on disposals of land);

(b) sections 6(2), (3), (7), (8) and (12), 8(5) and (6), 10(1) and (2) and 11(8) and (9) (which make consequential amendments and minor technical provisions about certain powers to make subordinate legislation);

(c) section 9(1), (2) and (4) (General Synod: power to vary or cancel meetings in session);

(d) paragraphs 1 and 7 of the Schedule (Legal Aid rules: delayed delivery of bill) and section 10(3) and (4) so far as relating to them;

(e) this section.

(3) The other provisions of this Measure come into force on such day as the Archbishops of Canterbury and York may by order jointly appoint; and different days may be appointed for different purposes.

(4) The Archbishops of Canterbury and York may by order jointly make transitional, transitory or saving provision in connection with the commencement of a provision of this Measure.

(5) Transitory provision under subsection (4) may, in particular, modify the application of a provision of this Measure pending the commencement of a provision of another Measure.

(6) The power to make an order under subsection (3) or (4) is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies as if the order had been made by a Minister of the Crown and as if this Measure were an Act of Parliament.

(7) This Measure extends to—

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Changes to legislation: *There are currently no known outstanding effects for the Church of England (Miscellaneous Provisions) Measure 2018. (See end of Document for details)*

(a) the whole of the province of Canterbury, except the Channel Islands (subject to subsection (8)), and

(b) the whole of the province of York, except the Isle of Man (subject to subsection (9)).

(8) This Measure may be applied to the Channel Islands, or either of them, in accordance with the Channel Islands (Church Legislation) Measures 1931 and 1957; and a reference in this section to the Channel Islands or either of them has the same meaning as a reference in those Measures to the Islands or either of them has.

(9) If an Act of Tynwald or an instrument made under an Act of Tynwald so provides, this Measure extends to the Isle of Man subject to such exceptions, adaptations or modifications as are specified in the Act or instrument.

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SCHEDULE

Section 10

AMENDMENTS TO CHURCH OF ENGLAND (LEGAL AID) RULES 1995

Introduction

1 The Church of England (Legal Aid) Rules 1995 (S.I. 1995/2034) are amended as follows.

Meetings and procedure of Legal Aid Commission

2 (1) In rule 5 (meetings and procedure of Legal Aid Commission), after paragraph (1) insert—

"(1A) The Commission shall elect one of its members to carry out the following functions in any circumstances where the chairman is unable to do so—

(a) the giving of an instruction under paragraph (2) below;

(b) the giving of an approval under a delegation given under paragraph (4) below;

(c) the giving of a casting vote under rule 11(1A) or 15(1A)."

(2) For paragraph (2) of that rule substitute—

"(2) If the chairman of the Commission considers that it has business which can properly be conducted by correspondence, the chairman may instruct the secretary to circulate to the members written proposals requiring the Commission's approval.

(3) Unless objection is received from members in such numbers and within such period from the date on which they were sent as the Commission may specify, the proposals are to be treated on the expiry of that period as approved by the Commission as if they had been approved at a duly convened meeting.

(4) The Commission may delegate to the chairman the approval of any matter which requires decision and which, because of its urgency, cannot be dealt with at a meeting of the Commission or by correspondence as mentioned in paragraph (2).

(5) A delegation under paragraph (4)—

(a) may be general or specific, and

(b) is subject to such conditions as the Commission may from time to time impose."

(3) After paragraph (5) of that rule (inserted by sub-paragraph (2) of this paragraph) insert—

"(6) A power conferred on the secretary by a provision of these Rules may be exercised by the deputy of the secretary."

(4) In consequence of the amendment made by sub-paragraph (3) of this paragraph, in rule 10 (interim certificates), omit paragraph (3) (which enables the deputy to exercise the secretary's powers in specified cases).

Commencement Information
I24 Sch. para. 2 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(p)**

Electronic service of documents

3 In rule 6 (service of notices etc.), in paragraph (1)—

(a) in the opening words, omit "either",

(b) after sub-paragraph (a) (but before the following "or") insert—

"(aa) by electronic means;", and

(c) in the full-out words, after "shall be sent" insert " either by electronic means or ".

Commencement Information
I25 Sch. para. 3 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(p)**

Casting vote for chairman on decision whether to grant or terminate legal aid

4 In rule 11 (determination of application for legal aid), after paragraph (1) insert—

"(1A) Where the Commission's decision on an application for legal aid is tied, the chairman is to have a second, casting vote."

Commencement Information
I26 Sch. para. 4 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(p)**

5 (1) In rule 15 (discharge or revocation of certificate), after paragraph (1) insert—

"(1A) Where the Commission's decision on the discharge or revocation of a certificate is tied, the chairman is to have a second, casting vote."

(2) In paragraph (4) of that rule, before "a result of" insert " as ".

Commencement Information
I27 Sch. para. 5 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(p)**

Assessment of costs

6 (1) In rule 26 (assessment of costs), after paragraph (4) insert—

"(4A) The power of the Commission under paragraph (3) or (4) to assess costs may be exercised by the chairman in consultation with the secretary in a case where—

(a) an interim certificate for legal aid has been issued under rule 10, or

(b) a certificate for legal aid has been issued under rule 11 (whether or not an interim certificate was granted in that case) for the payment of a contribution towards costs not exceeding £2,000 (or any greater

sum for the time being authorised by the Commission for the purposes of this paragraph).”

(2) After paragraph (4A) of that rule (inserted by sub-paragraph (1) of this paragraph) insert—

“(4B) The Commission shall have power to require the production of such information or documents (in addition to the solicitor's bill of costs) as it considers necessary for carrying out an assessment of costs under this rule.”

(3) In paragraph (1)(b) of that rule—

(a) for “£1000” substitute “ £3,000 ”, and

(b) for “this rule” substitute “ this paragraph ”.

(4) In each of paragraphs (3) and (4) of that rule, before “may” insert “ , subject to paragraph (4A), ”.

(5) In paragraph (5)(b) of that rule, after “the Commission” insert “ , or the chairman when acting under paragraph (4A), ”.

(6) In rule 27 (appointment of committee), in paragraph (1), at the end insert “ (and in a case where rule 26 applies, the power under this paragraph is not exercisable in so far as costs have been assessed by the chairman of the Commission acting under paragraph (4A) of that rule). ”

Commencement Information

I28 Sch. para. 6 in force at 1.3.2019 by S.I. 2019/67, **art. 2(1)(p)**

Delay by solicitor in putting in bill of costs

7 (1) After rule 27 insert—

“Delay in putting in bill of costs

28 (1) In a case where an interim certificate for legal aid has been issued under rule 10 but the assisted person's solicitor has, without good reason, not put in a bill of costs for assessment by the end of three months beginning with the date on which the certificate was issued, the Commission may disallow the whole of the costs.

(2) In any other case where costs are to be assessed under rule 26 but the assisted person's solicitor has, without good reason, not put in a bill of costs for assessment by the end of three months beginning with the date on which the certificate concerned was issued, the Commission may disallow the whole of the costs.

(3) In a case where, on a taxation or assessment of costs under these Rules, an assisted person's solicitor has been required to put in a new bill of costs but has, without good reason, not done so before the end of three months beginning with the date on which the taxation or assessment was concluded, the Commission may disallow the whole of the costs.

(4) An assisted person's solicitor may, before the end of the three months provided for under paragraph (1), (2) or (3), make an application to the

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secretary for the chairman to allow the solicitor a further period of up to three months in which to put in the bill.

(5) An application under paragraph (4)—
  (a) shall be in writing,
  (b) shall specify the further period sought and the reason for making the application,
  (c) shall be accompanied by evidence in support, and
  (d) shall be lodged with the secretary.

(6) Where the chairman considers that an application under paragraph (4) should not be granted, the chairman shall, before making a final decision, inform the assisted person's solicitor that the solicitor is to be afforded an opportunity to make representations as to why the solicitor should be allowed the further period sought.

(7) Representations under paragraph (6)—
  (a) shall be in writing, and
  (b) shall be lodged with the secretary before the end of 10 days beginning with the date on which the solicitor is informed of the opportunity to make the representations.

(8) As soon as the chairman has made a final decision on an application under paragraph (4), the secretary shall notify the solicitor in writing of the decision, together with a statement of the reason for it.

(9) The further period which may be allowed on the grant of an application under paragraph (4)—
  (a) shall not exceed three months, but
  (b) may be shorter than the period sought in the application.

(10) Where an application under paragraph (4) is granted, paragraph (1), (2) or (3) (as the case may be) has effect in relation to the solicitor as if the reference to three months beginning as mentioned there were instead a reference to the further period allowed on the application beginning with—
  (a) if the decision to grant the application is made before the end of the three months, the end of that period, or
  (b) if the decision is made after the end of that period, the day on which the decision is made.

(11) In a case where the bill of costs includes disbursements, the Commission may exercise its power under paragraph (1), (2) or (3) by disallowing the whole of the costs except for one or more of the disbursements.

(12) Where the chairman is unable to consider an application under paragraph (4) or representations under paragraph (6), the power to do so may be exercised by the secretary in consultation with two members of the Commission, at least one of whom is legally qualified within the meaning of section 9A of the Administration of Justice Act 1985."

(2) This paragraph applies in a case where the three months referred to in paragraph (1), (2) or (3) of the new rule 28 (inserted by sub-paragraph (1) of this paragraph) came to an end before the commencement of this paragraph (as well as in a case where they come to an end afterwards).

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