



# Church of England (Miscellaneous Provisions) Measure 2018

2018 No. 7

## *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**

**II** 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 ”,

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- (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—

**“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.

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- (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.

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- (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.

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**Commencement Information**

- I2** S. 6(2)(3)(7)(8)(12) in force at Royal Assent, see. s. 17(2)(b)
- I3** S. 6(1)(4)-(6)(9)-(11)(13)-(15) in force at 1.3.2019 by [S.I. 2019/67](#), [art. 2\(1\)\(e\)](#)

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