



Church Dignitaries (Retirement) Measure 1949

1949 No. 1 12 13 and 14 Geo 6

A Measure passed by the National Assembly of the Church of England To make provision for the retirement of deans, provosts, archdeacons, canons, prebendaries and other church dignitaries if incapacitated by age or physical or mental infirmity, or if guilty of unbecoming conduct or neglect of duty, and for purposes connected with the matters aforesaid. [14th July 1949]

PART I

RETIREMENT FOR INCAPACITY

1 Investigation of alleged incapacity of dignitaries.

- (1) In any case where the bishop is satisfied that such action is proper, he may by notice in writing require that a special meeting of the cathedral chapter of his diocese be summoned for the purpose of considering and reporting to him whether in their opinion a dignitary to whom this Measure applies holding office within the diocese is unable through disability arising from age or infirmity (whether bodily or mental) to discharge adequately the duties attaching to his office, and, if so, whether it is desirable that he should retire from his office, and (except in the case where the office held by the dignitary is an honorary one) whether on such retirement any, and if so what, annual sum should be secured to him by way of pension in addition to the pension or pensions (if any) to which he would be entitled had he retired voluntarily on account of age or infirmity. A copy of the notice shall at the same time be sent by the bishop to the dignitary.
- (2) The bishop may, if he so desires, appoint in writing a clerk in Holy Orders as his representative to attend the meeting of the chapter when invited by them to do so.
- (3) The chapter shall consider the questions so put to them and shall invite the dignitary concerned and the bishop's representative, if any, to confer with them, either together

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or separately, and after such conference, or after there has been a reasonable opportunity for such conference, shall make their report in writing answering the questions put to them by the bishop:

Provided that they shall not report that it is desirable that the dignitary should retire from his office unless at least two-thirds of the members present and voting at the meeting of the chapter have voted in favour of such a report.

- (4) At any meeting of the chapter to which the dignitary is invited he may, if he so desires, be assisted, or in his absence represented, by a friend or adviser.
- (5) The chapter may at any time before making their report request the bishop or his representative (if any) to make further enquiry into any matter and to communicate the result of such enquiry to the chapter.
- (6) The chapter shall send a copy of their report to the dignitary.

2 Powers of bishop.

- (1) In any case where the cathedral chapter have reported that it is desirable that the dignitary should retire from his office the bishop shall have power within six months from the receipt of the report—

- (a) if the office held by the dignitary is one the right of appointment to which is vested in His Majesty, to petition His Majesty to declare the office vacant, and thereupon it shall be lawful for His Majesty by Order in Council to make such a declaration;
- (b) in any other case, himself to execute an instrument in the prescribed form declaring the office vacant as from a date specified in the declaration not being less than three nor more than six months after the date thereof:

Provided that the bishop shall not present such a petition or execute such an instrument unless he is satisfied that the provisions hereinafter contained respecting the pensioning of the dignitary will be fulfilled.

- (2) The bishop shall cause a record of the exercise by him of a power under subsection (1) of this section and a copy of every declaration of vacation of an office made by him or on his petition, to be filed in the registry of the diocese.

3 Pension rights of dignitary on vacation of office.

- (1) A dignitary whose office is vacated by a declaration under this Part of this Measure shall as from the date of vacation—

- [^{F1}(a) shall be entitled to receive a pension under the ^{M1}Clergy Pensions Measure 1961 at the rate specified in Part I of the First Schedule to that Measure if he has attained the retiring age within the meaning of that Measure or, if he has not attained that age, a pension at the rate specified in Part II of that Schedule];
- (b) where by the report of the cathedral chapter the grant of an additional pension has been recommended, be granted such additional pension as may be agreed, if the dignitary is a member of the said cathedral chapter, between the bishop and the administrative chapter or cathedral council of the cathedral church or, if the dignitary is not a member of the said cathedral chapter, as may be agreed between the bishop and the diocesan board of finance; so however that the annual sum secured to the dignitary by way of additional pension shall not be less than the amount recommended by the report:

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Provided that—

- (i) where the dignitary is an archdeacon who is also a member of the said cathedral chapter, and the proceedings under this Part of this Measure have been instituted in respect of him in his capacity of archdeacon, this paragraph shall apply as if he were not a member of such chapter; and
 - (ii) where the person entitled to any such additional pension accepts any preferment or office of profit or is otherwise engaged in a gainful occupation, the body by whom the additional pension is payable may with the consent of the bishop suspend the pension or reduce the pension by such amount as they think fit, so long as he holds the preferment or office or is so engaged.
- (2) F2
- (3) Any sums payable in respect of such additional pension shall be paid by the administrative chapter or cathedral council, or by the diocesan board of finance which agreed to the grant thereof, in such manner, at such times and in such instalments as may be prescribed.
- (4) For the purpose of providing such additional pension, an administrative chapter or cathedral council may charge the capitular revenues, or such part thereof as is applicable to the provision or augmentation of the stipends of members of the chapter, with the amount payable by way of additional pension.

Textual Amendments

- F1 S. 3(1)(a) substituted by Clergy Pensions Measure 1961 (No. 3), Sch. 2
- F2 S. 3(2) repealed by Clergy Pensions Measure 1961 (No. 3), Sch. 2

Marginal Citations

- M1 1961 No. 3.

PART II

4—11. F3

Textual Amendments

- F3 Ss. 4—11 repealed by Ecclesiastical Jurisdiction Measure 1963 (No. 1), Sch. 5

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PART III

GENERAL

12 Application of Measure.

This Measure applies to deans and provosts of cathedral churches, archdeacons, canons and prebendaries, whether stipendiary or not, and clerks in Holy Orders holding any other ecclesiastical offices of freehold tenure, not being parochial benefices (except holders of offices in a Royal Peculiar, members of the dean and chapter of the cathedral church of Christ in Oxford and lay canons) and the persons to whom this Measure so applies are in this Measure referred to as dignitaries.

13 Proceedings at special meetings of cathedral chapters.

- (1) The cathedral chapter to be summoned to consider a matter under Part I . . . ^{F4} of this Measure shall—
- (a) in the case of a cathedral not being a parish church cathedral, be the dean and chapter as constituted when performing functions within the jurisdiction of the greater or general chapter; and
 - (b) in the case of a parish church cathedral, be the chapter as constituted by scheme under the ^{M2}Cathedral Measures 1931 and ^{M3}1934, or the ^{M4}Southwark Cathedral Measure 1937.

In this subsection, “parish church cathedral” means a cathedral church mentioned in the Second Schedule to the ^{M5}Cathedrals Measure 1931.

- (2) A notice from the bishop requiring the summoning of a special meeting of a cathedral chapter under this Measure shall be addressed to the dean or provost: Provided that, if the dean or provost is the dignitary concerned, it shall be addressed to such other member of the cathedral chapter as the bishop may determine, and that member shall notwithstanding anything in the statutes of the cathedral have power to summon the meeting.
- (3) The summons shall be effected by a notice sent by post to each of the members of the cathedral chapter stating the purpose for which the meeting is summoned.
- (4) Subject to the provisions of subsection (3) of section one . . . ^{F4} of this Measure, any question before the cathedral chapter shall be determined by a majority of the members present and voting on the question, and in the case of an equality of votes the dean or provost shall have a second or a casting vote: the special meeting may be adjourned from time to time.
- (5) Where a dignitary in respect of whom proceedings are taken under this Measure is a member of the cathedral chapter, he shall not sit or vote at a special meeting of the chapter summoned to consider his case.
- (6) Subject to the provisions of this section, the rules of procedure applicable to special meetings of the cathedral chapter in question shall apply.

Textual Amendments

F4 Words repealed by [Ecclesiastical Jurisdiction Measure 1963 \(No. 1\)](#), [Sch. 5](#)

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Marginal Citations

- M2 1931 No. 7.
- M3 1934 No. 3.
- M4 1937 No. 3.
- M5 1931 No. 7.

[^{F5}14 Provisions where dignitary also an incumbent.

- (1) Where a dignitary, being a dean, provost or archdeacon, is also the incumbent of a parochial benefice, a declaration of vacation of his office as dean, provost or archdeacon made under this Measure shall have the effect also of vacating his benefice, whether the office is annexed to the benefice or the benefice to the office.
- (2) Where a dignitary, being an archdeacon, canon or prebendary,—
 - (a) is also the incumbent of a parochial benefice, and
 - (b) resigns his benefice consequent upon a notification from the bishop under subsection (2)(a) of section 11 of the Incumbents (Vacation of Benefices) Measure 1977 (powers of bishop where enquiry under that Measure results in a finding of mental or physical incapacity), or the bishop has declared his benefice vacant under that section,

the powers of the bishop under section 2 of this Measure shall be exercisable as if the report of the diocesan committee of provincial tribunal under the said Measure of 1977 had been a report by the cathedral chapter under this Measure, and the bishop may execute an instrument declaring the archdeaconry, canonry or prebend, as the case may be, vacant in accordance with that section or, if the case so requires, petition Her Majesty to make such a declaration, and there shall be no appeal against the exercise of those powers by the bishop.]

Textual Amendments

- F5 S. 14 substituted by [Incumbents \(Vacation of Benefices\) Measure 1977 \(No. 1, SIF 21:4\)](#), s. 20(1)

15 Effect of declaration of vacancy in an office.

Where an office held by a dignitary has been declared vacant in pursuance of this Measure, the vacancy may be filled up in the same manner and with the like incidents in all respects as if the dignitary were dead.

16 Notices.

Any notice or other document authorised or required to be sent or given by or under this Measure shall be deemed to have been duly sent or given if sent through the post in a pre-paid registered letter addressed, in the case of a dignitary having an official residence to that residence, and in any other case to the dignitary at his last known place of residence.

17 Rules.

The Rule Committee appointed under section fourteen of the ^{M6}Incumbents (Discipline) Measure 1947 may make rules for carrying this Measure into effect

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and for all matters not otherwise provided for incidental to and connected with the administration of justice under this Measure and for prescribing anything which under this Measure is to be prescribed, and the said section fourteen shall have effect as if herein re-enacted and in terms made applicable to this Measure.

Marginal Citations

M6 1947 No. 1.

18 Definitions.

For the purposes of this Measure, unless the context otherwise requires—

the expression “the bishop” means the archbishop or bishop of the diocese in which the office of the dignitary concerned is held;

the expression “administrative chapter” means the dean and chapter acting by or as an administrative chapter by whatever name known;

the expression “cathedral council” in relation to the cathedral of St. Alban means the dean’s council;

the expression “prescribed” means prescribed by rules under . . . ^{F6} this Measure.

Textual Amendments

F6 Words repealed by Ecclesiastical Jurisdiction Measure 1963 (No. 1), Sch. 5

19 Extent.

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 or either of them, as defined in the ^{M7}Channel Islands (Church Legislation) Measure 1931 in accordance with that Measure.

Marginal Citations

M7 1931 No. 4.

20 Short Title.

This Measure may be cited as the Church Dignitaries (Retirement) Measure 1949.

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