



# Incumbents (Vacation of Benefices) Measure 1977

1977 No. 1

## PART I

### INSTITUTION OF ENQUIRY INTO PASTORAL SITUATION IN A PARISH

#### [<sup>F1</sup>1] Code of Practice as to reconciliation.

- (1) It shall be the duty of the House of Bishops to draw up rules of guidance for the purposes of this Measure generally and, in particular, as to the steps which that House considers should be taken, where the bishop of a diocese receives notice of intention to make a request under section 1A of this Measure, to—
  - (a) promote better relations between the incumbent and the parishioners; and
  - (b) remove the causes of their estrangement,and to promulgate the rules of guidance in a Code of Practice.
- (2) The House of Bishops may at any time amend or replace a Code of Practice issued under subsection (1) above by a further Code of Practice issued under that subsection.]

#### Textual Amendments

- F1** S. 1 inserted (1.9.1994) by [1993 Measure No. 1, s. 1](#) (with s. 15) (the originally enacted s. 1 being renumbered (1.9.1994) as s. 1A by s. 2(1) (with s. 15) of that 1993 Measure); [Instrument dated 25.7.1994 made by Archbishops of Canterbury and York](#)

#### [<sup>F2</sup>1A] Request for enquiry into pastoral situation in a parish.

- (1) A request for an enquiry under this Part of this Measure into the pastoral situation in a parish on the ground that there has been a serious breakdown of the pastoral relationship between the incumbent and [<sup>F3</sup>the] parishioners to which the conduct of

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the incumbent or of [<sup>F3</sup>the] parishioners or of both has contributed over a substantial period may [<sup>F4</sup>, subject to subsection (1A) below] be made by—

- (a) the incumbent of the benefice to which the parish belongs; or
- (b) the archdeacon in whose archdeaconry the parish is; or
- (c) a majority of not less than two-thirds of the lay members of the parochial church council of the parish present and voting at a duly convened meeting of that council on a resolution that the request be made; or
- (d) where the incumbent mentioned in paragraph (a) above is the archdeacon mentioned in paragraph (b) above, a majority of the members of the bishop's council and standing committee of the diocesan synod of the diocese in which the parish is.

[<sup>F5</sup>(1A) An enquiry under this Part of this Measure shall only be undertaken after the persons concerned have had an opportunity to resolve the pastoral situation in the parish in question; and, accordingly, a request for such an enquiry shall not be made unless notice of intention to make the request has been given by the person or persons concerned to the bishop of the diocese in which the parish in question is at least six months, and not more than twelve months, before the request is made.]

- (2) A request for such an enquiry [<sup>F6</sup>, and a notice of intention to make it, shall be made or given] in writing to the bishop of the diocese in which the parish in question is and the secretary of the diocesan synod of that diocese and [<sup>F7</sup>, in the case of a request,] shall contain particulars of the facts which appear to the person or persons making the request to justify an enquiry.
- (3) A request for such an enquiry [<sup>F8</sup>, and a notice of intention to make it, made or given] by the persons mentioned in subsection (1)(c) or (d) above must—
  - (a) be signed by all of those persons and include the address of each of them; and
  - (b) specify two persons from among those signing the request [<sup>F9</sup>or notice] who are willing to act as representatives of those persons in connection with the enquiry [<sup>F9</sup>or notice] and indicate which of those two is willing to conduct and receive correspondence relating to the enquiry [<sup>F9</sup>or notice] (in this Measure referred to as “the designated representative”).
- (4) A request for such an enquiry [<sup>F10</sup>, and a notice of intention to make it, made or given] by the persons mentioned in subsection (1)(c) above must also contain a statement that the persons who have signed the request [<sup>F11</sup>or notice] constitute a majority of two-thirds or more of those lay members of the parochial church council of the parish in question who were present at a duly convened meeting of that council and voted thereat on a resolution that the request be made [<sup>F12</sup>or the notice be given].
- (5) A request for such an enquiry [<sup>F13</sup>, and a notice of intention to make it, made or given] by the persons mentioned in subsection (1)(d) above must also contain a statement that the persons who have signed the request [<sup>F14</sup>or notice] constitute a majority of the members of the bishop's council and standing committee of the diocesan synod of the diocese in which the parish in question is.
- (6) Where a [<sup>F15</sup>request or notice made or given] under this section is received by the secretary of the diocesan synod, he shall notify—
  - (a) the incumbent of the benefice to which the parish in question belongs, unless it was he who made the request [<sup>F16</sup>or gave the notice];
  - (b) the archdeacon in whose archdeaconry that parish is, unless it was he who made the request [<sup>F16</sup>or gave the notice]; and

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- (c) the secretary of the parochial church council of that parish, unless it was the persons mentioned in subsection (1)(c) above who made the request [<sup>F16</sup>or gave the notice].

[<sup>F17</sup>(7) A request made under this section may be withdrawn by notice in writing given to the bishop of the diocese in which the parish in question is and the secretary of the diocesan synod of that diocese by—

- (a) in the case of a request made by the person mentioned in subsection (1)(a) or (b) above, that person;
- (b) in the case of a request made by the persons mentioned in subsection (1)(c) above, a majority of the lay members of the parochial church council of the parish present and voting at a duly convened meeting of that council on a resolution that the request be withdrawn;
- (c) in the case of a request made by the persons mentioned in subsection (1)(d) above, by a majority of the members of the bishop's council and standing committee of the diocesan synod of the diocese in which the parish is,

and where a request is withdrawn under this subsection no further steps shall be taken under this Part of this Measure in connection with the request.]

#### Textual Amendments

- F2** s. 1 (as originally enacted) renumbered as s. 1A (1.9.1994) by 1993 Measure No. 1, ss.1, 14(1), 15, **Sch. 3 para. 1** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F3** Words in s. 1A(1) substituted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(a)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F4** Words in s. 1A(1) inserted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(a)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F5** S. 1A(1A) inserted (1.9.1994) by 1993 Measure No. 1, ss. 2(2), 15 (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F6** Words in s. 1A(2) substituted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(b)(i)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F7** Words in s. 1A(2) inserted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(b)(ii)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F8** Words in s. 1A(3) substituted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(c)(i)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F9** Words in s. 1A(3)(b) inserted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(c)(ii)-(iv)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F10** Words in s. 1A(4) substituted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(d)(i)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F11** Words in s. 1A(4) inserted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(d)(ii)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F12** Words in s. 1A(4) inserted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(d)(iii)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F13** Words in s. 1A(5) substituted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(e)(i)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F14** Words in s. 1A(5) inserted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **sch. 3 para. 1(e)(ii)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F15** Words in s. 1A(6) substituted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(f)(i)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F16** Words in s. 1A(6)(a)(b)(c) inserted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 1(f)(ii)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

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**F17** S. 1A(7) inserted (1.9.1994) by 1993 Measure No. 1, ss. 2(3), 15, 16 (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

## 2 Action to be taken by archdeacon in certain cases before institution of enquiry.

- (1) Where the bishop of a diocese receives a request under [F18 section 1A] of this Measure, then, unless—
- (a) the request was made by the archdeacon in whose archdeaconry the parish in question is, or
  - (b) that archdeacon is the incumbent of the benefice to which the parish in question belongs,
- the bishop shall direct the first mentioned archdeacon [F19 to take such steps as are mentioned in subsection (4) below and] to report in accordance with subsection (5) below.
- (2) Where the archdeaconry in which the parish in question is situated is vacant, the bishop shall appoint some other archdeacon holding office in the diocese to act in the case and shall inform the secretary of the diocesan synod accordingly.
- (3) Where the archdeacon in whose archdeaconry the parish in question is situated is of opinion that it would not be right or expedient for him to act in the case, he shall so inform the bishop and the bishop shall appoint some other archdeacon holding office in the diocese to act in his place and shall inform the secretary of the diocesan synod accordingly.
- [F20(4) On receiving the directions of the bishop the archdeacon shall take such steps as he considers appropriate to promote better relations between the incumbent and his parishioners and to remove the causes of their estrangement.]
- (5) Not more than six weeks after receiving [F21 the directions of the bishop] the archdeacon shall report to the bishop whether in his opinion an enquiry into the pastoral situation in the parish to which the request relates would be in the best interest of the incumbent and [F21 the] parishioners and should accordingly be instituted [F22]; and the archdeacon, in making his report to the bishop, shall have regard to the extent to which the current Code of Practice issued under section 1 of this Measure has been complied with].
- (6) On receiving the archdeacon's report the bishop shall inform the secretary of the diocesan synod of the archdeacon's opinion as stated in his report and direct him to inform the incumbent, the secretary of the parochial church council and the designated representative, if any, of it.

### Textual Amendments

- F18** Words in s. 2(1) substituted (1.9.1994) by 1993 Measure No. 1, s. 14(1), Sch. 3 para. 2(a)(i) (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F19** Words in s. 2(1) repealed (1.9.1994) by 1993 Measure No. 1, s. 14(1)(2), Sch. 3 para. 2(a)(ii), Sch. 4 (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F20** S. 2(4) repealed (1.9.1994) by 1993 Measure No. 1, s. 14(2), Sch. 4 (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F21** Words in s. 2(5) substituted (1.9.1994) by 1993 Measure No. 1, s. 14(1), Sch. 3 para. 2(b) (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

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**F22** Words in s. 2(5) inserted (1.9.1994) by 1993 Measure No. 1, s. 14(1), **Sch. 3 para. 2(b)** (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

### 3 Institution of enquiry.

(1) Where—

- (a) the request for an enquiry under this Part of this Measure was made by the archdeacon in whose archdeaconry the parish in question is or that archdeacon is the incumbent of the benefice to which the parish in question belongs; or
- (b) the archdeacon appointed to act under section 2 of this Measure reports that in his opinion such an enquiry should be instituted; or
- (c) within six months after the making of his report the archdeacon informs the bishop that notwithstanding that he did not report as aforesaid he considers that the circumstances are such that such an enquiry is nevertheless required; or
- (d) within six months after the making of the archdeacon's report the incumbent, the secretary of the parochial church council or the designated representative, if any, informs the bishop that notwithstanding that the archdeacon did not report as aforesaid such an enquiry is nevertheless required,

then <sup>F23</sup>the bishop may, if he thinks fit, direct the secretary of the diocesan synod to institute such enquiry]

<sup>F24</sup>(1A) If, within the period of six months after the relevant date, the bishop neither gives a direction under subsection (1) above nor notifies the secretary of the diocesan synod that he has decided not to give such a direction, such a direction shall be deemed to have been given.

(1B) In this section “relevant date” means—

- (a) in either of the cases described in subsection (1)(a) above, the date on which the request was made;
- (b) in the case described in subsection (1)(b) above, the date on which the report was made;
- (c) in the case described in subsection (1)(c) or (d) above, the date on which the bishop is informed that, notwithstanding that the archdeacon did not report that in his opinion an enquiry under this Part of this Measure should be instituted, such an enquiry is nevertheless required.]

<sup>F25</sup>(2) Where it is the secretary of the parochial church council or the designated representative who informs the bishop as mentioned in subsection (1)(d) above, the bishop may, if he thinks fit and without prejudice to subsection (3) below, give a direction under subsection (1) above but shall not be obliged to do so.]

<sup>F25</sup>(3) Where the person holding the office of incumbent of the benefice to which the parish in question belongs has held that office for less than three years at the date on which, but for this subsection, the bishop would be required or have power to give a direction under subsection (1) above, the bishop may, if he thinks fit, give such a direction but shall not be obliged to do so.]

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#### Textual Amendments

**F23** Words in s. 3(1) substituted (1.9.1994) by 1993 Measure No. 1, s. 3(2) (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

*Status: This version of this part contains provisions that are prospective.*

**Changes to legislation:** *There are currently no known outstanding effects for the Incumbents (Vacation of Benefices) Measure 1977, Part I. (See end of Document for details)*

- F24** S. 3(1A)(1B) inserted (1.9.1994) by 1993 Measure No. 1, s. 3(3) (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York
- F25** S. 3(2)(3) repealed (1.9.1994) by 1993 Measure No. 1, ss. 3(4), 14(2), Sch.4 (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

#### **4 Provisions with respect to resignation of benefice by incumbent.**

- (1) Where a request for an enquiry under this Part of this Measure is made in accordance with section 1 thereof, the incumbent concerned may when, or at any time before, he receives a notification from the bishop of the diocese under section 12(1) of this Measure request the bishop to accept his resignation of his benefice, and the bishop may, if he thinks it would be in the interest of the Church to do so, accept the resignation.
- (2) An incumbent who has been informed that the bishop has accepted his resignation of his benefice under subsection (1) above shall execute a deed resigning his benefice as from such date as may be specified in the deed, being a date not later than three months after the date on which he was informed as aforesaid, and shall vacate the parsonage house or other his official residence not later than three months after the date on which the benefice became vacant by virtue of that deed.
- (3) Where the bishop accepts the resignation of an incumbent under this section, he shall notify the secretary of the diocesan synod that no further steps are to be taken in connection with the enquiry and direct him to inform the secretary of the parochial church council of the parish in question, the designated representative, if any, and, if necessary, the archdeacon in whose archdeaconry that parish is and the members of the body by which the enquiry was to have been, or is being, conducted of that fact.

PROSPECTIVE

#### **[<sup>F265</sup> Enquiry to be conducted by provincial tribunal.**

An enquiry into the pastoral situation in a parish shall be conducted by a provincial tribunal for the province in which the parish in question is situated.]

#### **Textual Amendments**

- F26** S. 5 substituted (1.9.1994) by 1993 Measure No. 1, s. 14(1), Sch. 3 para.3 (with s. 15); Instrument dated 25.7.1994 made by Archbishops of Canterbury and York

**Status:**

This version of this part contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the *Incumbents (Vacation of Benefices) Measure 1977, Part I*.