



# Mission and Pastoral Measure 2011

2011 No. 3

## PART 8

### MISCELLANEOUS AND GENERAL

#### *Restrictions on presentation*

#### **85 Suspension of presentation for period not exceeding five years**

- (1) Where a benefice is vacant or is shortly to become vacant, the bishop may, subject to the following provisions of this Measure, with the consent of the mission and pastoral committee, and after consultation with—
- (a) the registered patron of the benefice,
  - (b) the parochial church council of the parish or each of the parishes concerned, and
  - (c) both chairmen of the deanery synod of the deanery concerned;

give notice that during such period not exceeding five years as may be specified in the notice (in this Measure referred to as the “suspension period”), the registered patron shall not exercise his right of presentation without the consent of the mission and pastoral committee and (if he is not the registered patron) of the bishop; and thereupon that right shall only be exercised in accordance with the notice during the suspension period.

When consulting any person or body in accordance with this subsection the bishop shall inform him or her or it of the reasons why he is considering whether he should exercise the power conferred by this subsection.

- (2) The power conferred by subsection (1) may be exercised in relation to any benefice at any time within three months before the benefice is due to become vacant or at any time during the vacancy.
- (3) Except where any consultation required by subsection (1) takes place at a meeting between the bishop or his representative and the person or body to be consulted or his or her or its representative, that person or body shall be advised that he or she or it may,

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within twenty-eight days after receiving a request from the bishop for his views about the giving of the notice under that subsection, request a meeting with the bishop or his representative, and where such a request is made, the bishop shall convene a meeting which all the persons whom he is required by that subsection to consult shall be invited to attend, either in person or by representatives, for the purposes of enabling those present to consult with the bishop or his representative about the giving of the notice.

- (4) The suspension period shall come to an end before the date on which it would otherwise expire, in any of the following circumstances—
- (a) if notice is given by the bishop that the necessary consent or consents have been given to the exercise of the patron's right of presentation;
  - (b) if notice is given by the bishop with the consent of the mission and pastoral committee, terminating the suspension period; or
  - (c) if a pastoral scheme or order provides for the holding of the benefice in plurality with another benefice or other benefices, or a pastoral scheme otherwise affecting the benefice expressly provides for the termination of the period;

and the termination shall, in the cases mentioned in paragraphs (a) and (b), take effect on such day, not being less than fourteen days after the date of the notice, as may be specified in the notice, and, in the cases mentioned in paragraph (c), shall take effect when the relevant provisions of the pastoral scheme or order come into operation.

- (5) The bishop may, before the expiration of a suspension period, by a further notice given with the same consent and after the same consultation as were required for the original notice given under subsection (1), extend the period for a further period not exceeding five years; and that power may be exercised from time to time before the expiration of any extension of a suspension period.
- (6) After the expiration of a suspension period, the bishop may, by a further notice given with the same consent and after the same consultation as were required for the original notice given under subsection (1), declare a new suspension period in relation to the vacancy and, if he does so, subsections (1), (3), (4) and (5) shall apply in relation to any notice given and any suspension period declared under this subsection as they apply to a notice given and a suspension period declared under subsection (1).
- (7) A notice given by the bishop under this section shall be given to—
- (a) the designated officer within the meaning of section 7(5) of the Patronage (Benefices) Measure 1986,
  - (b) the mission and pastoral committee,
  - (c) the registered patron of the benefice, unless the only registered patron is the bishop,
  - (d) both chairmen of the deanery synod of the deanery concerned,
  - (e) the churchwardens of the parish or each of the parishes concerned, and
  - (f) the sequestrators;
- and a copy of the notice shall be filed in the diocesan registry.
- (8) The designated officer shall, not earlier than six months, and not later than three months, before any suspension period declared under this section is due to expire, other than a suspension period which comes to an end before the date on which it would otherwise expire under subsection (4), give notice to the bishop and, unless the designated officer is also the secretary of the mission and pastoral committee, to that secretary, of the date on which the suspension period is due to expire.

- (9) The churchwardens to whom any such notice is given shall forthwith cause it to be affixed at or near to the door of a parish church or, if there is no parish church, of the principal place of worship in the parish.

**86 During suspension period sequestration of profits, appointment of priest in charge and management of property**

- (1) Where the bishop has declared a suspension period in respect of any benefice under section 85, he shall during that period sequester the profits of the benefice.
- (2) The sequestrators shall, subject to and in accordance with the directions of the bishop, make provision for the performance during the suspension period of the ecclesiastical duties of the benefice, and before giving any such directions the bishop shall consult the parochial church council of the parish or each of the parishes concerned and, so far as is reasonably practicable, the registered patron of the benefice.
- (3) Where the bishop proposes to appoint a priest in charge for any benefice to which a suspension period applies, he shall before making the appointment consult the parochial church council of the parish or each of the parishes concerned and, so far as is reasonably practicable, the patron of the benefice.
- (4) Where the bishop appoints a priest in charge for any benefice to which a suspension period applies, the bishop may require the priest to reside in the parsonage house of the benefice.
- (5) The provisions of Schedule 7 shall have effect with respect to the management of the benefice property and the application of the profits of the property during any suspension period.

**87 Restrictions on presentation pending the making of pastoral schemes and orders**

- (1) Where any proposals are approved under section 7(1) or 22(1) or where the bishop is of the opinion under section 17(1) that proposals should be implemented and the proposals contain recommendations for any of the matters specified in sections 31 and 32 and 34 to 36, and any benefice which would be affected if the recommendations were implemented is vacant on the date on which the registered patron thereof is sent a copy of the proposals under section 7(2), 17(2) or 22(2) or becomes vacant thereafter, the patron shall not be entitled after that date or after the occurrence of the vacancy, as the case may be, to exercise his right of presentation to the benefice without the consent of the mission and pastoral committee and (if he is not the registered patron) of the bishop, until the occurrence of whichever of the following first occurs, namely—
- (a) the relevant recommendations are implemented by a pastoral scheme or order and come into operation, in which case the right of presentation shall be subject to the provisions of the scheme or order;
  - (b) the proposals are withdrawn or the draft scheme or order prepared in pursuance thereof is withdrawn, or the scheme made in pursuance thereof is disallowed or withdrawn;
  - (c) the relevant recommendations are omitted from the proposals, draft scheme or order, or scheme; or
  - (d) the period of three years from the date aforesaid expires:

Provided that, where an appeal has been brought against a draft scheme which implements the relevant recommendations, and Her Majesty in Council has not

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determined the appeal under section 12(4) or (6) within the period referred to in paragraph (d), that paragraph shall have effect as if that period had been extended to the date on which the decision on the appeal is delivered.

- (2) Where the bishop has given directions to the mission and pastoral committee under section 3(3) to consider or has been notified under that section that the committee intend to consider in relation to any benefices, any of the matters specified in sections 31 and 32 and 34 to 36, he may, upon a vacancy or impending vacancy in any of those benefices, or where a joint boundary committee has been appointed under section 16 upon a vacancy or impending vacancy in any benefice which might be affected by the exercise of the powers of that committee under sections 16 and 50 as limited (if at all) by instrument sealed by the bishops of the dioceses concerned, notify—
- (a) the registered patron, unless the only registered patron is the bishop;
  - (b) the parochial church council, and
  - (c) both chairmen of the deanery synod of the deanery concerned,

that those matters are being considered, and thereupon the registered patron shall not be entitled to exercise his right of presentation to that benefice without such consent or consents as are specified in subsection (1); and the provisions of section 7 of the Patronage (Benefices) Measure 1986 shall, subject to the modifications made by section 88 of this Measure, apply.

- (3) A restriction imposed by subsection (2) shall cease to operate at the expiration of one year from the date of the notice unless within that period proposals are approved under section 7 or section 22(1) or where the bishop is of the opinion under section 17(1) that proposals should be implemented containing recommendations for any of the matters specified in subsection (1) or (2) which would affect the benefice concerned, in which case the restriction shall continue until occurrence of whichever of the following first occurs, that is to say, the several events mentioned in paragraphs (a), (b) and (c) of subsection (1), and the expiration of three years from the date of the notice or, where the proviso to subsection (1) applies, the date on which the decision of Her Majesty in Council on the appeal is delivered.
- (4) The fact that restrictions are in force under this section with respect to any benefice shall not be taken as preventing the bishop from exercising his powers under sections 85 and 86 with respect to the benefice, and, if he does so, those sections and Schedule 7 shall apply to the benefice in lieu of this section.

## **88 Modification of Patronage (Benefices) Measure 1986 where presentation is suspended or restricted**

Where the bishop declares a suspension period in respect of any benefice, or any restriction imposed by or under any provision of section 38 or 87 comes into force in respect of any benefice—

- (a) save as provided in this section no notice under section 7 of the Patronage (Benefices) Measure 1986 of a vacancy or impending vacancy in that benefice shall be given during the suspension period or, as the case may be, while the restriction is in force;
- (b) any such notice relating to that benefice given before the suspension period began or, as the case may be, the restriction came into force shall be deemed to have been revoked and any act done under that Measure consequent upon that notice shall be of no effect;

- (c) that benefice shall be deemed for the purposes of that Measure to become vacant immediately after the day on which the suspension period comes to an end or, as the case may be, the day on which the restriction ceases to be in force, but if a further suspension period is declared, the benefice shall no longer be deemed to be vacant; and
- (d) as soon as practicable after he becomes aware of the vacancy, the bishop shall give notice of that fact to the designated officer (within the meaning of section 7(5) of the Patronage (Benefices) Measure 1986 and, unless he is the designated officer, to the registrar of the diocese and section 7(4) of that Measure shall apply as it applies to a notice under section 7(1) or (2) so however that if the suspension period will come to an end as a result of a notice given by the bishop under section 85(4) of this Measure the notice referred to in this section may be given by the bishop at the same time as the notice under section 85(4) and in any other case the notice may be given not more than fourteen days before the suspension period will end or the restriction will cease to be in force as the case may be.

## **89 Suspension of new rights of patronage**

Where any proposals approved under section 7 or 22 contain recommendations for the creation of a new benefice for a new parish, and any church in the area which is to form the new parish is consecrated after the proposals are so approved but before any of the events mentioned in section 87(1) have occurred in relation to those recommendations, no person shall become the patron of that church by virtue of any rule of law or any provision of or instrument under any Act or Measure other than this Measure during the period between the approval of the recommendations and such one of those events as first occurs.

### *Miscellaneous provisions*

## **90 Priest in charge to replace incumbent as trustee of certain charities during vacancy in benefice, etc.**

- (1) Where any property of a charity established for ecclesiastical purposes of the Church of England is vested in or under the management or control of the incumbent of a benefice (with or without other persons) or a corporation of which the incumbent of a benefice is a member, and the benefice becomes vacant or the bishop declares a suspension period in respect of the benefice, then, during the period of the vacancy or during the suspension period, as the case may be, the trusts of the charity or the constitution of the corporation shall have effect with the substitution for the incumbent of that benefice of the priest in charge of that benefice.
- (2) Any change under subsection (1) shall take effect without any conveyance or other assurance.
- (3) The provisions of this section shall not apply to any fund or property for which provision is made under section 76.

## **91 Induction in one parish church**

- (1) Where, in a case not falling within paragraph 5(2)(a) of Schedule 3, any person is appointed an incumbent of a benefice in the area of which two or more parish churches

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are situated, the bishop may direct in which parish church the incumbent is to be inducted, and after the induction he or she shall be deemed to have been inducted in both or all of the parish churches situated in the area of that benefice and to have been admitted to that benefice, and no further fees in respect of the induction shall be payable.

- (2) Where, in a case not falling within paragraph 5(3)(a) of Schedule 3, any person is appointed an incumbent of benefices which are to be held in plurality, the bishop may direct that the incumbent shall be inducted in such one of the parish churches in the areas of those benefices as he may specify, and after the induction the incumbent shall be deemed to have been inducted in all of the parish churches in those areas and to have been admitted to each of those benefices, and no further fees in respect of the induction shall be payable.

## **92 Grant of land for new churches etc. and vesting of certain churches**

- (1) Where the diocesan board of finance or any other body constituted for the holding on trust of diocesan property holds any buildings or land for the general purposes of the board or for any ecclesiastical purposes of the Church of England, the board or other body may, without the sanction of an order of the Charity Commission or the Court, grant the buildings or land to the diocesan board of finance under section 14(1) of the [New Parishes Measure 1943 \(6 & 7 Geo. 6 No. 1\)](#) or make a declaration under section 14(3B) of that Measure for any of the purposes mentioned in section 13 of that Measure, being purposes falling within the purposes for which the buildings or land are or is held before the grant or declaration.
- (2) It is hereby declared for the removal of doubt that the powers conferred by section 14 of that Measure extend to the grant by the incumbent of a benefice or any part of the land held with the parsonage, but no such grant shall be made without the consent of the diocesan parsonages board.

### *Administrative provisions*

## **93 Diocesan pastoral accounts**

- (1) The diocesan board of finance of each diocese shall hold an account for each diocese to be called the diocesan pastoral account and shall transfer to the account—
- (a) any moneys which are payable to the account under any provisions of this Measure or any scheme or order made under it;
  - (b) such other moneys as the bishop and the diocesan board of finance for the diocese determine should be credited to the account not being moneys for the application or disposal of which provision is made by or under any other enactment.
- (2) Every diocesan board of finance shall as soon as practicable after the end of each financial year of the board prepare an account of the moneys paid into or out of the diocesan pastoral account during that year and shall include in it a statement of the amount by which the diocesan pastoral account was in debit or credit, as the case may be, at the beginning and end of that year.
- (3) Every diocesan board of finance shall lay a copy of the account prepared under this section before the diocesan synod.

#### **94 Payment of expenses from diocesan pastoral accounts and application of moneys**

- (1) Expenses incurred by or on behalf of, or under the authority or direction of, the bishop of any diocese or any mission and pastoral committee or the Commissioners for the purposes of this Measure or any scheme or order made shall be paid out of the moneys standing to the credit of the diocesan pastoral account so far as those moneys suffice, but any such expenses shall not include the salaries or wages of persons in the regular employment of the bishop, any board or committee of the diocese, or the Commissioners, or any part of any such salaries or wages.
- (2) Where any such expenses are incurred in respect of more than one diocese the Commissioners shall, after consultation with the diocesan board of finance of each diocese concerned, determine the proportions in which the expenses are to be borne by each diocese.
- (3) The Commissioners or the diocesan board of finance, as the case may be, shall be entitled to be repaid out of the diocesan pastoral account any money expended by them or the board on any property vested by or under this Measure in the Commissioners or the board, as the case may be, for the purpose of furthering the disposal or use of the property.
- (4) Where the diocesan board of finance is satisfied that any moneys standing to the credit of a diocesan pastoral account are not required or likely to be required for meeting the expenses or expenditure referred to in this section it may—
  - (a) apply those moneys by way of grant or loan to the provision, restoration, improvement or repair of churches and parsonage houses in the diocese, including the repair of any building closed for regular public worship vested in the board pending the coming into operation of arrangements under a pastoral (church buildings disposal) scheme, or to other purposes of the diocese or any benefice or parish in the diocese; or
  - (b) apply those moneys by way of grant or loan for the benefit of another diocese, either generally for those purposes or for such of those purposes as the board may specify; or
  - (c) transfer those moneys to the capital or income account of the diocesan stipends fund; or
  - (d) transfer those moneys to one or more other accounts or funds held by the board or apply or transfer them partly to such other accounts or funds and partly as provided in paragraphs (a) to (c).

#### **95 Temporary maintenance account**

- (1) The Commissioners shall hold an account to be called the temporary maintenance account and shall transfer to it any moneys which are payable to that account under section 64.
- (2) Any moneys transferred under subsection (1) shall be held by the Commissioners as part of their corporate property and the Commissioners shall credit the temporary maintenance account with an equivalent amount charged upon their general fund and shall allow interest at such rate as they may determine upon all sums credited to that account.
- (3) The Commissioners may apply moneys standing to the credit of the temporary maintenance account by way of grant or loan to the care, insurance, repair and maintenance of any building closed for regular public worship vested in—

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- (a) the Commissioners or a diocesan board of finance pending the making or the coming into operation of arrangements under a pastoral (church buildings disposal) scheme;
- (b) a diocesan board of finance pending the making or the coming into operation of arrangements under a new or amended pastoral (church buildings disposal) scheme;
- (c) the Commissioners or a diocesan board of finance pending the making or the coming into operation of arrangements under a pastoral church buildings scheme to which section 58 or 59 applies.

#### **96 Power of Commissioners to determine boundaries**

- (1) Where by virtue of this Measure or any scheme or order made under it any land is vested in the Commissioners, the diocesan board of finance, the Churches Conservation Trust or an incumbent of a benefice, the Commissioners may determine the boundaries of the land by an instrument under their seal, and the determination shall for all purposes be binding on any of the bodies and any incumbent, whether as the body or person in whom the land is vested or the body or person from whom it is transferred, but shall bind no other person.
- (2) A copy of any such instrument purporting to be certified by an officer of the Commissioners as a true copy shall be sufficient evidence in any proceedings of the contents of the instrument.

#### **97 Power of Commissioners to determine questions relating to patronage**

- (1) Where it is necessary for the purposes of this Measure or any scheme or order made under it to find the registered patron of a benefice and it appears to the Commissioners that it is not possible or is not reasonably practicable to find that patron, the Commissioners may direct that the diocesan board of patronage shall be treated for those purposes as the registered patron of that benefice, and any such direction shall be conclusive for those purposes.
- (2) The provisions of subsection (1) with respect to a person who cannot be found shall apply also with respect to a person as to whom the Commissioners are satisfied—
  - (a) that he or she is outside the United Kingdom and has not within the United Kingdom any representative authorised to act for him or her; and
  - (b) either that no address at which letters are likely to be delivered to him or her is known, or that a letter asking him or her to nominate such a representative has been written to him or her at his or her last known address but no reply has been received within a reasonable period.
- (3) If at any time it appears to the Commissioners that the interest of any person in the patronage of a benefice is so small that for the purposes of section 46 or paragraph 1 of Schedule 3 it should be disregarded, they may determine his or her interest to be negligible and thereupon he or she may be treated for those purposes as having no interest in the patronage of the benefice.

#### **98 Powers of Commissioners to seek information and give advice**

- (1) The Commissioners may at any time seek information from, and give advice to a mission and pastoral committee or a diocesan board of finance on any matter



concerning its functions under this or any other Measure, and the committee or board concerned shall provide any such information and have regard to any such advice.

- (2) The advice referred to in subsection (1) may, if the Commissioners think fit, be contained in a code or codes of practice.

## **99 Assistant curates**

- (1) The bishop of a diocese may by an instrument under his hand direct that any office of assistant curate in his diocese may be described in such terms as may be specified in the instrument and, where an instrument is in force under this section, any licence issued to a person to exercise the office shall refer to the assistant curate by that description and any reference in any enactment, Canon or other instrument to an assistant curate shall be construed accordingly.
- (2) Before issuing an instrument under this section the bishop shall consult the incumbent or priest in charge of the benefice or, in the case of a team ministry, the team chapter of the team ministry in which the assistant curate exercises or is to exercise the office.
- (3) An instrument under this section may be varied or revoked by a further instrument after carrying out the like consultation as is referred to in subsection (2) and after consulting the assistant curate (if any) exercising the office.
- (4) On making an instrument under this section the bishop shall send a copy to the registrar of the diocese, and the registrar shall file it in the diocesan registry.
- (5) When a bishop issues a licence to an assistant curate to exercise his or her office in any benefice the bishop, after carrying out the like consultation as is referred to in subsection (2), may, in the licence, assign to the assistant curate—
- (a) a special cure of souls in a part of the area of the benefice, whether or not with responsibility for a particular church, or
  - (b) a special responsibility for a particular pastoral function,
- but any such provision is without prejudice to—
- (i) the general duties and responsibilities of the incumbent or priest in charge, or
  - (ii) in the case of an assistant curate who exercises or is to exercise the office in a team ministry, any duties or responsibilities under section 34, of any member of the team chapter or any other member of the team, including any vicar appointed to act as rector under subsection (16) of that section.

## **100 Application to benefices in the patronage of the Crown or Duke of Cornwall**

- (1) Nothing in the Measure or in any scheme or order made under this Measure shall, without the consent, given either generally or in respect of a particular benefice, of Her Majesty or, as the case may be, of the Duke of Cornwall, apply in relation to any benefice the patronage or any share in the patronage of which is vested in or exercisable by Her Majesty, whether in right of Her Crown or of the Duchy of Lancaster, or is vested in or exercisable by the possessor for the time being of the Duchy of Cornwall, whether Her Majesty or a Duke of Cornwall.
- (2) Any consent given under subsection (1) and, if by virtue of any such consent any provisions of this Measure or any scheme or order made under it apply to any such benefice as aforesaid, any consent, approval or other thing required by any such provision, scheme or order to be given or done by or to the patron of the benefice, may be given or done in accordance with the following provisions—

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- (a) any consent under subsection (1) in respect of a benefice or benefices the patronage of which is vested in or exercisable by Her Majesty in right of Her Crown and any consent, approval or other thing required to be given or done by or to the patron of any such benefice may be given or done by or to the Prime Minister;
- (b) any consent under subsection (1) in respect of a benefice or benefices the patronage of which is vested in or exercisable by Her Majesty in right of the Duchy of Lancaster, and any consent, approval or other thing required to be given or done by or to the patron of any such benefice, may be given or done by or to the Chancellor of the Duchy;
- (c) any consent under subsection (1) in respect of a benefice or benefices the patronage of which is vested in or exercisable by the possessor for the time being of the Duchy of Cornwall, and any consent, approval or other thing required to be given or done by or to the patron of any such benefices, may be given or done by or to any person authorised to act on behalf of the Duke of Cornwall under the [Duchy of Cornwall Management Act 1863 \(26 & 27 Vict. c. 49\)](#), including any persons having authority under section 38 or 39 of that Act.

## **101 Provision as to notices and other documents**

- (1) All notices, consents, directions, determinations and requests required or authorised by this Measure to be served, sent, given, made or obtained shall be in writing.
- (2) Any notice or other documents required or authorised by this Measure to be served on or sent or given to any person may be served, sent or given by delivering it to him or her, or by leaving it at his or her proper address, or by post.
- (3) Any such notice or other document required or authorised to be served, sent or given to a corporation or to an unincorporated body having a secretary or clerk or to a firm, shall be duly served, sent or given if it is served on or sent or given to, as the case may be, the secretary or clerk of the corporation or body or a partner of the firm.
- (4) For the purposes of this section, and of section 7 of the Interpretation Act 1978 (c. 30), the proper address of the person on or to whom any such notice or other document is required or authorised to be served, sent or given shall, in the case of the secretary or clerk of a corporation, be that of the registered or principal office of the corporation, in the case of the secretary or clerk of an unincorporated body or a partner of a firm, be that of the principal office of the body or firm, and, in any other case, be the last known address of the person:

Provided that, where the person on or to whom the notice or other document is to be served, sent or given, has, in accordance with arrangements agreed, furnished an address in the United Kingdom for the serving, sending or giving of the notice or other document, his or her proper address for those purposes shall be that address.

- (5) Where any document is required to be sent to the Commissioners it shall be addressed to the Secretary of the Commissioners.
- (6) If any question arises as to the person on or to whom, or the manner in which, any notice or other document is to be served, sent or given, the Commissioners may decide the question and their decision shall be conclusive.

## **102 Patrons who are minors**

Where a minor is entitled to the patronage or a share of the patronage of a benefice, any consent, approval or other thing required by any provision of this Measure or any scheme or order made under it to be given or done by or to the registered patron of the benefice may be given or done by or to the guardian of the minor.

## **103 Provisions where there is no parochial church council, incumbent, etc.**

- (1) Where at the material time a parish (other than a parish of a parish church cathedral) has no parochial church council, the provisions of this Measure with respect to notices, consents and other things required or authorised to be given or done by or to such councils shall have effect, if the parish has churchwardens, as if the churchwardens were the parochial church council, and, if there are no churchwardens, shall have no effect with respect to that parish.
- (2) Where at the material time a benefice has no incumbent, or the office of vicar in a team ministry is vacant, the provisions of this Measure with respect to notices, consents and other things required or authorised to be given or done by or to incumbents or vicars in team ministries shall have no effect with respect to that benefice or office.
- (3) Where at the material time an archdeaconry has no archdeacon or a deanery has no rural dean, the provisions of this Measure with reference to notices, consents and other things required or authorised to be given or done by or to archdeacons or rural deans shall have no effect with respect to that archdeaconry or deanery.
- (4) For the purposes of this section a certificate signed by the bishop stating that at any time specified therein a particular benefice, office of vicar in a team ministry, archdeaconry or deanery had no incumbent, vicar, archdeacon or rural dean, as the case may be, or a particular parish had no parochial church council or no churchwardens, shall be conclusive.

### *General provisions*

## **104 Pluralities not be authorised except under this Measure**

- (1) Subject to the provisions of this Measure, no person shall hold benefices in plurality except in pursuance of a pastoral scheme or order.
- (2) Subject to the provisions of this Measure, no person shall hold a cathedral preferment with a benefice or with two or more benefices authorised to be held in plurality by a pastoral scheme or order, unless the cathedral statutes so provide or allow.
- (3) No person shall hold cathedral preferment in more than one cathedral.
- (4) If any person accepts any benefice or cathedral preferment and such acceptance would, but for this subsection, result in him or her holding offices in contravention of this section, he or she shall, on his or her admission to the benefice or preferment, be deemed to vacate the office or offices previously held by him or her.
- (5) In this section—
  - “benefice” includes the office of a vicar in a team ministry;
  - “cathedral preferment” means the office of dean, residentiary canon or stipendiary canon in any cathedral;

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“cathedral statutes” includes a charter or local Act relating to the cathedral;  
“office” means a benefice or cathedral preferment.

## **105 Meaning of “benefice” and “parish”**

(1) In this Measure—

“benefice” means the office of rector or vicar of a parish or parishes, with cure of souls, but not including (except in section 104) the office of a vicar in a team ministry;

“the area of a benefice” means the parish or parishes belonging to the benefice;

“parish” means, except in sections 21(2)(g) and 62(4), a parish constituted for ecclesiastical purposes, and does not include a conventional district.

(2) If any question arises under this Measure as to whether an ecclesiastical office is a benefice, or whether any area or place is or is within a parish or the area of a benefice or an extra-parochial place, it shall be determined by the Commissioners after consultation with the bishop, and that determination shall be conclusive for the purposes of this Measure.

(3) If any question arises whether any benefice or parish is to be treated, for the purposes of any pastoral scheme or order or any provisions of this Measure relating thereto, as a new benefice or parish or as an existing benefice or parish with altered area or boundaries, any provision of the scheme or order expressly stating or necessarily implying (whether by a change of name or retention of an existing name or otherwise) that the benefice or parish is to be treated as new or existing shall be conclusive of that question.

(4) Nothing in this Measure or in any scheme or order made under it shall be taken as applying to or in any way affecting any parish constituted otherwise than for ecclesiastical purposes.

## **106 General interpretation**

(1) In this Measure, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, that is to say—

“admission” includes institution and induction, collation, licence and any other process by which a person becomes the incumbent of a benefice or (for the purposes of section 104) the holder of a cathedral preferment and “admit” shall be construed accordingly;

“the bishop” means the bishop of the diocese concerned;

“charity” has the meaning ascribed to it by section 78(2) of the Charities Act 2006 (c. 50);

“church” means a church or chapel which has been consecrated for the purpose of public worship according to the rites and ceremonies of the Church of England, and includes a building used or intended to be used partly for the purpose of such public worship and partly for the purpose of a church hall, whether the whole building is consecrated or only such part thereof as is used or intended to be used for the purpose of such public worship, and any reference to the consecration of a church shall, in the case of such a building, be construed as including a reference to the consecration of the part of the

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building used or intended to be used for the purpose of such public worship as aforesaid;

“the Church Buildings Council” means the body of that name constituted in accordance with section 54 of the Dioceses, Pastoral and Mission Measure 2007 (No. 1);

“the Commissioners” means the Church Commissioners;

“diocesan board of finance” means in relation to a diocese, the board of that name constituted under the [Diocesan Boards of Finance Measure 1925 \(15 & 16 Geo. 5 No. 3\)](#) for that diocese;

“diocesan pastoral account” means, in relation to a diocese, the account referred to in section 93 for that diocese;

“diocesan stipends fund” means, in relation to a diocese, the fund of that name established for that diocese;

“Dioceses Commission” means the body constituted under section 2 of the Dioceses, Pastoral and Mission Measure 2007;

“endowments” in relation to any benefice, does not include a church, churchyard, parsonage house or right of patronage, but subject as aforesaid any question as to what constitutes the endowments of a benefice or the income of the endowments shall be conclusively determined by the Commissioners, who may include income arising from a parsonage house;

“English Heritage” means the Historic Buildings and Monuments Commission for England known as English Heritage;

“functions” includes powers and duties;

“funding period” means a period determined as such by an order made under section 65(1);

“interested parties” has the meanings assigned by section 6 or 21, as the case may be;

“listed building” and “conservation area” have the meanings respectively assigned to them by sections 1(5) and 69(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9);

“local planning authority” has the meaning ascribed to it by section 1 of the Town and Country Planning Act 1990 (c. 8);

“mission” means the whole mission of the Church of England, pastoral, evangelistic, social and ecumenical;

“mission and pastoral committee” means the committee appointed in accordance with section 2;

“National Amenity Societies” means the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings, The Twentieth Century Society and the Victorian Society and such other body as may from time to time be designated by the Dean of the Arches and Auditor as a national amenity society for the purposes of this Measure;

“the 1983 Measure” means the Pastoral Measure 1983 (No. 1);

“parsonage house” means the house or other dwelling vested in the incumbent of a benefice (when the benefice is full) and being his or her official residence, and includes any outbuildings or land included in the curtilage of any such house or dwelling and any rights appurtenant thereto;

“pastoral order” means an order made by the bishop under section 11;

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“pastoral scheme” means a scheme made by the Commissioners under Part 3 or 4, and includes (except where it is expressly or by necessary implication excluded) any such scheme made in pursuance of proposals by a joint boundary committee appointed under section 16 and a pastoral church buildings scheme;

“pastoral church buildings scheme” means a pastoral scheme which contains a declaration of closure for regular public worship;

pastoral (church buildings disposal) scheme” has the meaning assigned to it by section 60;

“patron”, in relation to any benefice, means the person or persons for the time being entitled, otherwise than by lapse, to present to that benefice upon a vacancy, including—

- (a) in any case where the right to present is vested in different persons jointly, every person whose concurrence would be required for the exercise of the joint right, and
- (b) in any case where the patronage is vested in different persons by way of alternate or successive right of presentation, every person who is for the time being the person who would be entitled to present on the next or any subsequent turn,

and “right of patronage” shall be construed accordingly:

“provision” in relation to a building, includes, in addition to the construction or erection thereof, the acquisition of a site and the provision of necessary fittings, installations, outbuildings, fences, paths and drives, and “provided” shall be construed accordingly;

“registered patron”, in relation to a benefice or to benefices held in plurality, means every person who is for the time being registered under the Patronage (Benefices) Measure 1986 in a register of patrons as a patron of that benefice or those benefices;

“restoration” includes rebuilding or partial rebuilding;

“sharing agreement” has the same meaning as in the Sharing of Church Buildings Act 1969;

“suspension period” has the meaning assigned to it by section 85;

“the temporary maintenance account” means the account referred to in section 95.

- (2) In determining the net proceeds of the sale or exchange of any property by the Commissioners or the diocesan board of finance, or the net premium or net rent of any property let by the Commissioners or board, the deductions to be made shall include the deduction of any money expended by the Commissioners or board or a mission and pastoral committee on the property or for the purpose of furthering the disposal of the property or on the demolition of any building on the property; and if any question arises as to what are the net proceeds, net premium or net rent aforesaid, the decision of the Commissioners shall be conclusive.
- (3) Any reference in this Measure to the Church Representation Rules shall be construed as a reference to those Rules as for the time being amended by any resolution of the General Synod passed in accordance with section 7(1) of the Synodical Government Measure 1969 (1969 No. 2).
- (4) Any reference in this Measure to the demolition of a building shall be construed as including a reference to the demolition of part thereof.

### **107 Saving for planning legislation**

Notwithstanding that the development of any land is or may be authorised or regulated by or under this Measure, the provisions of the enactments relating to town and country planning, and any restrictions or powers thereby imposed or conferred in relation to land, shall apply and may be exercised in relation to any such development.

### **108 Provisions as to guild churches**

- (1) A pastoral church buildings scheme may make a declaration of closure for regular public worship under section 42 with respect to a church designated as a guild church under the City of London (Guild Churches) Acts, 1952 and 1960, other than the church of St. Lawrence Jewry, as if the references to a parish church included references to a guild church, and accordingly provision may be made under Part 6 of this Measure, either by the pastoral church buildings scheme, in accordance with section 59 but not section 58, or by a pastoral (church buildings disposal) scheme, with respect to the guild church or part thereof and any churchyard or other land annexed or belonging to the church.
- (2) When a pastoral church buildings scheme or pastoral (church buildings disposal) scheme making any such provision comes into operation, the Acts mentioned in subsection (1) shall cease to apply to the guild church concerned, and the scheme may provide for such transitional, supplementary and incidental matters as appear to the Commissioners to be necessary.
- (3) A pastoral scheme may make provision in accordance with section 44 with respect to the churchyard or other land annexed or belonging to a guild church, other than the church of St. Lawrence Jewry.
- (4) In relation to a scheme affecting a guild church—
  - (a) the interested parties shall be or shall include the vicar of the guild church, the patron of the guild church and the guild church council;
  - (b) the references in sections 9(3) and 24(3) to the secretary of the parochial church council and the parish church or churches shall be or shall include references to the secretary of the guild church council and the guild church.
- (5) It is hereby declared that the incumbent of a benefice or the holder of another ecclesiastical office may be nominated to a vacancy in a guild church but the bishop may refuse his licence on the ground that the benefice or office cannot properly be combined with the office of vicar of the guild church.
- (6) Subject to subsections (1) to (5), nothing in this Measure or in any scheme or order made under it shall apply to or affect any guild church.

### **109 Churches etc. affected by private and local Acts**

- (1) Subject to subsection (4), the provisions of this Measure, and in particular those relating to churches closed for regular public worship, shall apply to—
  - (a) churches affected by any private or local Act passed before 1st April 1969;
  - (b) land comprising the sites of any such churches or annexed or belonging to any such churches; and
  - (c) any burial ground which is affected by any such Act and is vested in the incumbent of a benefice or is subject to the jurisdiction of the bishop of any diocese;

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and a scheme made under this Measure may amend or revoke any provision of a private or local Act so passed, if it appears to the Commissioners that the provision of the Act is inconsistent with or rendered unnecessary by the provisions of the scheme or the provisions of this Measure applicable thereto.

- (2) Where any private or local Act passed before 1st April 1969 provided for the erection of a new church, with or without other buildings and accommodation, and the bishop of the diocese in which the church was to be erected is satisfied, after consultation with the mission and pastoral committee, that it is no longer expedient for a new church and other buildings and accommodation to be erected as provided by the Act or that a place of worship should be provided instead of that church, a pastoral scheme may provide for any or all of the following—
- (a) for the erection on the land on which the church and any other buildings or accommodation were to be erected of a building suitable for licensing by the bishop as a place of worship;
  - (b) for empowering any person in whom that land is vested to sell, lease or otherwise dispose of it, or any part of it, in such manner and upon and subject to such terms as the scheme may provide;
  - (c) for specifying the purposes for which any moneys received as a result of any such disposal are to be applied;

and any provisions of the Act relating to the erection of the new church and other buildings or accommodation, and any other provisions thereof which are inconsistent with, or rendered unnecessary by, the provisions of the scheme, may be amended or revoked by the scheme.

In this subsection “place of worship” has the same meaning as in section 58.

- (3) If it appears to the Commissioners that a proposed pastoral or pastoral (church buildings disposal) scheme will affect the rights (other than the patronage rights) of any person under any such private or local Act as is referred to in subsection (1) or (2) they shall, in the case of a pastoral scheme, serve a copy of the draft scheme on that person together with such a notice as is mentioned in sections 9(1) and 24(1) and he or she shall thereafter be deemed to be an interested party in relation to that scheme, and, in the case of a pastoral (church buildings disposal) scheme, they shall serve a copy of the draft scheme on that person under section 62(4).

## **110 Transitional provisions**

The transitional provisions in Schedule 8 shall have effect.

## **111 Repeals**

Subject to the provisions of Schedule 8, the provisions specified in Schedule 9 are hereby repealed to the extent specified in column 2 of that Schedule.

## **112 Short title, extent and commencement**

- (1) Subject to subsection (3), 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 as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either of them, in accordance with those Measures and, if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, shall



extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument.

A scheme made for the purpose of such application, and the Order in Council confirming the scheme, may provide for the repeal of the Church Building Acts 1818 to 1884 and any other Acts specified in the schedule to the New Parishes Measure 1943, in their application to the Channel Islands or either of them.

- (2) The power to apply the provisions of this Measure to the Channel Islands shall not apply to sections 3 and 31 as far as they relate to sharing agreements.
- (3) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint and different days may be appointed for different provisions.
- (4) This Measure may be cited as the Mission and Pastoral Measure 2011.