



# Welsh Church Act 1914

## 1914 CHAPTER 91

### PART IV

#### SUPPLEMENTAL

#### **20 First fruits and tenths**

As from the date of disestablishment first fruits in respect of any subsequent appointment to any ecclesiastical office in the Church in Wales, and tenths in respect of any such office, shall cease to be payable :

Provided that nothing in this Act shall affect the liability of any person who at the passing of this Act has an existing interest in the emoluments of any ecclesiastical office in the Church in Wales to pay tenths, but such tenths shall after the date of disestablishment be paid to the Welsh Commissioners or as they may direct, and shall continue to be so payable so long as such person continues entitled to such an interest.

#### **21 Vacancies during suspensory period**

If any vacancy occurs in any ecclesiastical office in the Church in Wales, between the passing of this Act and the date of disestablishment—

- (1) His Majesty the King may in the case of a vacant bishopric, on the petition of the Archbishop of Canterbury, or of the surviving Welsh bishops, nominate a person to fill the vacancy; but any bishop so nominated shall not be summoned to or be qualified to sit in the House of Lords, and shall be subject to the provisions herein-after mentioned :
- (2) Any other vacancy may be filled by an appointment made by the same person in the same manner as if this Act had not passed :
- (3) A person nominated or appointed to any office in pursuance of this section shall not be liable to pay any first fruits in respect of appointment to the office, or any tenths in respect of the office, but his interest as respects the office to which he is so nominated or appointed shall not be an existing interest within the meaning of this Act:

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- (4) If the person so nominated or appointed was at the passing of this Act the holder of any other ecclesiastical office in the Church in Wales he shall, until the date of disestablishment, pay over to the bishop; of the diocese the net income of the last-mentioned office, who shall thereout make such provision for the discharge of the spiritual duties of that office as he may think proper until the date of disestablishment.

## **22 Provision as to trusts**

- (1) Where any cathedral or ecclesiastical corporation dissolved by this Act holds any property in trust for any charitable purpose, the property shall on the dissolution of the corporation vest in the Welsh Commissioners, and the Commissioners shall, on the request of the representative body, transfer the property to that body or to persons appointed by them, subject to the trusts affecting the same, and under the same supervision, local or otherwise, as heretofore, or as near thereto as the circumstances of the case will admit.
- (2) Where any ecclesiastical persons are immediately before the date of disestablishment in right of their offices entitled to be trustees of any property held in trust for any charitable purpose, or members of any bodies constituted for the management of any private endowment, or trustees for the management of property belonging to institutions or private foundations for purposes not ecclesiastical, or to exercise any control or to give any consent or approval in respect of any trust, endowment, foundation, or institution, then the persons (if any) who may hereafter at any time discharge duties similar or analogous to those now discharged by those ecclesiastical persons, and in succession to them, shall be entitled to succeed in their room and to be members of such bodies and to act as such trustees and to exercise such control and to give such consent or approval :

Provided that the bishops of the Church in Wales shall not as such continue to be Ecclesiastical Commissioners or Governors of Queen Anne's Bounty.

## **23 Provisions as to marriages**

As from the date of disestablishment, the law relating to marriages in churches of the Church of England (including any law conferring any right to be married in such a church) shall cease to be in force in Wales and Monmouthshire, and the provisions of the Marriage Acts, 1811 to 1898, relating to marriages in registered buildings, shall apply to marriages in churches of the Church in Wales, and every such church may, accordingly be registered under and subject to the conditions imposed by those Acts :

Provided that—

- (a) Every church in Wales and Monmouthshire in which immediately before the date of disestablishment marriages could lawfully be solemnised, shall without registration or the payment of any fee become, as from that date, a registered building within the meaning of the said Acts, and all churches which at the date of disestablishment appear in the official list of the Registrar-General shall be deemed for the purpose of this section to be churches in which marriages can lawfully be solemnised :
- (b) A person who at the date of disestablishment is the incumbent of any parochial benefice in Wales or Monmouthshire shall, on making application to the Registrar-General for the purpose, be entitled to be appointed as the

authorised person with respect to all churches within his spiritual charge as such incumbent which by virtue of this section become registered buildings.

## **24 Supplemental provisions as to burial grounds**

- (1) Nothing in this Act shall during the incumbency of an existing incumbent of an ecclesiastical parish—
  - (a) affect any powers or rights with respect to burials in the burial ground of that parish, including the consecrated portion of any burial ground provided under the Burial Acts, 1852 to 1906, or affect any enactment requiring or authorising a notice or certificate of any burial to be given to the incumbent ; or
  - (b) affect the right of any existing clerk or sexton to fees in respect of such burials.
- (2) The vesting of any burial ground under this Act shall be without prejudice to any existing public and private rights of burial therein.
- (3) Where any burial ground which, under this Act, is transferred to any authority (whether a burial board, council, chairman of a parish meeting and overseers, or trustees) adjoins a church vested in the representative body, then after the determination of the incumbency of the existing incumbent—
  - (a) the burial ground shall be held subject to a right of way in the representative body, and the clergy and congregation attending tire church, and such other persons as may resort thereto for the purpose of public or private worship, or of repairing the church, or for any other lawful purpose ; and
  - (b) no funeral shall be allowed to take place during the usual time of the ordinary services in the church, and such other regulations shall be made by the Secretary of State as may be found necessary to prevent any interference, by persons attending funerals, with the clergy or congregation attending the church; and
  - (c) any road or path through the burial ground to the church shall be kept in good and sufficient repair by the authority ; and
  - (d) where the use of part of the burial ground is required for the enlargement or repair of the church, it may be so used in any case where it might lawfully have been so used, and subject to the like conditions and restrictions, as if this Act had not been passed, and where used for the purpose of the enlargement of the church the part so used shall thereupon vest in the representative body.
- (4) Subject as aforesaid, every such burial ground shall after the determination of the incumbency of the existing incumbent be held for the same purposes and subject to the same rules and regulations as if the Burial Acts, 1852 to 1906, were in force in the area of the authority by which the burial ground is to be administered and as if it were a burial ground provided under those Acts, and those Acts, so far as is consistent with the tenor thereof, and with the provisions of this Act, shall apply accordingly:

Provided that where any such burial ground is tinder this Act transferred to the chairman of the parish meeting and overseers of a rural parish the necessary steps shall forthwith be taken for the constitution of a burial authority for the parish.

## **25 Powers of vestries and churchwardens**

- (1) There shall be transferred to the council of every borough and urban district in Wales and Monmouthshire—

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- (a) the powers, duties, and liabilities of the vestry of every parish within the borough or urban district, except so far as they relate to the affairs of the church or to ecclesiastical charities;
  - (b) the powers, duties, and liabilities of the churchwardens of every such parish, except so far as they relate to the affairs of the church or to charities, or are powers and duties of overseers, but inclusive of the obligations of the churchwardens with respect to maintaining and repairing closed burials grounds wherever the expenses of such maintenance and repair are payable out of the poor rate under the Burial Act, 1855, and the burial ground is not transferred to the representative body.
- (2) The council of every such borough and urban district shall have the like powers and duties with regard to the appointment of overseers and the appointment and revocation of appointment of assistant overseers as are conferred on parish councils by section five of the Local Government Act, 1894, and that section shall apply accordingly:

Provided that paragraph (c) of subsection (2) of that section shall not, unless the Local Government Board otherwise direct, apply to any parish in any such borough or urban district, but the legal interest in all property referred to in the said paragraph, and with the exception therein mentioned, shall vest only in the overseers of the parish, subject to all trusts and liabilities affecting the same.

- (3) Nothing in this section shall affect any order which may have been made by the Local Government Board under section thirty-three of the Local Government Act, 1894.

## **26 Powers of incumbents with respect to property in which they have existing interest**

During the continuance of the existing interest of the holder of any ecclesiastical office in the Church in Wales in any property, any power of sale, leasing, mortgaging, exchanging, or otherwise disposing of or dealing with that property exercisable by the holder of that office at the passing of this Act shall continue exercisable by him, but no. such power shall be exercised by him—

- (a) in the case of property transferred or to be transferred to the representative body, without the consent of that body; and
- (b) in the case of property transferred or to be transferred to a county council, without the consent of the Welsh Commissioners so long as they continue to exist, and thereafter of the county council, or on appeal of the Board of Agriculture and Fisheries ;

and such consent as aforesaid shall be substituted for any consents or approval which would have been required if this Act had not been passed :

Provided that where under the Acts in pursuance of which property is disposed of or dealt with the whole or any part of the proceeds of the consideration received for the sale, leasing, mortgage, exchange, disposal of or dealing with the property is payable to the Ecclesiastical Commissioners or Queen Anne's Bounty or the Board of Agriculture and Fisheries, or any other authority, it shall be paid to the representative body or the county council as the case may be, and shall, subject to the existing interest of the incumbent, become the property of that body or council.

## **27 Powers of management and sale**

- (1) The Welsh Commissioners, and any local authority shall, with respect to any property vested in them by or under this Act, have power to manage the property and, as incidental thereto, power to sell, lease, or exchange any part thereof; but any such power of sale, leasing, or exchange shall not be exercised by the Welsh Commissioners without the consent of the Treasury, or by a local authority without such consent as is by law required for the purposes of the sale, leasing, or exchange of land by that authority :

Provided that nothing in this section shall be construed as conferring a power on any authority to sell any part of a burial ground.

- (2) The property transferred under this Act to the University of Wales shall not be reckoned as part of the property held by that university for the purposes of the limitation contained in the charter of the university on the amount of property which they are authorised to hold, and the university may, notwithstanding anything in that charter, hold and apply the property so transferred to them, and make any payments thereout required for preserving existing interests, in accordance with the provisions of this Act, and shall for that purpose have power to manage the property, and as incidental thereto to sell, lease, or exchange any part thereof; but no such power of sale, leasing, or exchange shall, whilst the university continues liable to make payments for the purpose of preserving existing interests, be exercised without the consent of the Treasury.
- (3) As respects glebe and other land transferred to the representative body subject to the payment of the value thereof, the Welsh Commissioners may allow the whole or any part of the money payable by the representative body to remain on mortgage of the glebe or other land transferred, or may allow the payment to be made by instalments spread over such term of years as they may determine.

## **28 Supplemental provisions as to tithe rentcharge**

- (1) Nothing in this Act shall affect any liability to pay tithe rentcharge, or the liability of any lay impropriator of any tithe rentcharge to repair any ecclesiastical building, but a county council shall not, by reason of being entitled to or receiving any tithe rentcharge under this Act, be liable for the repair of any ecclesiastical building.
- (2) Such liability as aforesaid of a lay impropriator may be enforced in the temporal courts at the instance of the representative body in like manner as if such liability arose under a covenant made with the representative body and running with the tithe rentcharge.

## **29 Delivery up of and access to books and documents**

- (1) The respective registrars of the diocesan or other registries, or any other officers having the possession or custody of any books or documents relating to any of the property vested in the Welsh Commissioners by this Act, and not in the possession or under the control of the Ecclesiastical Commissioners or of Queen Anne's Bounty, shall, within three months next after the date of disestablishment, deliver the same to the Welsh Commissioners.
- (2) The Ecclesiastical Commissioners and Queen Anne's Bounty respectively shall deliver to the Welsh Commissioners any books or documents in their possession or under

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their control relating exclusively to the property vested in the Welsh Commissioners by this Act.

- (3) The Welsh Commissioners shall give receipts for the books and documents so delivered to them and—
- (a) shall, where any such books and documents relate exclusively to property transferred to any body under this Act, hand over those books and documents to that body; and
  - (b) shall, where any such books and documents relate to property transferred under this Act partly to one body, and partly to another body hand over those books and documents to such one of those bodies as the Welsh Commissioners think fit; and
  - (c) may hand over to any person, authority, or body any such books and documents other than aforesaid, which they think ought to be placed under the control of that person, authority, or body ; and
  - (d) shall lodge in the National Library of Wales the residue of such books and documents when not required by the Welsh Commissioners for the execution of their duties under this Act.
- (4) Where by virtue of this section any books and documents are handed over to any body and relate also to property transferred to some other body, the body to whom those books and documents are handed over shall be under the same liability as respects the production and the delivery of copies of those books and documents as if they had given to that other body as incident to a conveyance on sale an acknowledgment in writing of the right of that other body to production of those books and documents and to delivery of copies thereof.
- (5) Nothing in this section shall affect section seventeen of the Local Government Act, 1894, or apply to any books or documents in the possession or custody of the Board of Agriculture and Fisheries.

### **30 Borrowing powers**

- (1) The Welsh Commissioners may, with the consent of the Treasury, and upon such terms as the Treasury may approve, borrow such sums of money as they may think expedient for carrying into effect any provisions of this Act, and may give as security for the repayment of any sums so borrowed and the interest thereon any part of the property vested in them by this Act other than any property required by this Act to be transferred to the representative body, but shall determine as between the several parts of property so given as security the part or parts to be primarily liable for the several sums so borrowed.
- (2) The National Debt Commissioners, if they think fit, may, out of any money in their hands, advance to the Welsh Commissioners, with such guarantee as is by this Act authorised (but not otherwise), any money which by this Act the Welsh Commissioners are authorised to borrow.
- (3) The Treasury may, if they think fit, guarantee the payment of the principal and interest of all or any part of any money borrowed by the Welsh Commissioners.
- (4) Any security given by the Welsh Commissioners in pursuance of this Act shall be in such form, and may contain such powers of sale or otherwise, as the Treasury approve, and there shall be certified thereon, in such form and manner as the Treasury direct, any guarantee given by the Treasury.

- (5) For giving effect to the guarantee aforesaid, the Treasury, in aid of any money applicable under this Act for payment of principal and interest for the time being accrued due in respect of any money borrowed by the Welsh Commissioners in pursuance of this Act, may cause to be issued out of the Consolidated Fund of the United Kingdom, or the growing produce thereof, such sums as may be necessary for payment of the said principal and interest, or of any part thereof respectively.
- (6) If any money is at any time issued out of the Consolidated Fund in pursuance of the guarantee aforesaid, the Treasury shall cause the same to be repaid to the Consolidated Fund out of the funds in the hands of the Welsh Commissioners or of their successors in title to the property given as security.

### **31 Accounts of Welsh Commissioners and audit**

- (1) At the end of every financial year accounts of the receipts and expenditure of the Welsh Commissioners, both of capital and of income, shall be made up in such form and with such particulars as the Treasury may direct, and shall be audited by the Controller and Auditor General as public accounts in accordance with such regulations as the Treasury may make, and shall be laid before Parliament, together with his report thereupon.
- (2) It shall be lawful for the Welsh Commissioners to invest any money for the time being in their hands in accordance with regulations made by the Treasury in any securities which are for the time being authorised by Parliament as investments for savings banks funds.

### **32 Provisions as to vesting of stock and copyhold land**

- (1) Where any property vested in the Welsh Commissioners by this Act consists of stock within the meaning of the Trustee Act, 1893, the Welsh Commissioners shall for the purpose of enabling such stock to be registered in their names have the right to transfer or call for the transfer of such stock in like manner as if a vesting order had been made for the purpose by the High Court under the Trustee Act, 1893.
- (2) Where any property vested in the Welsh Commissioners or the Ecclesiastical Commissioners or Queen Anne's Bounty under this Act consists of copyhold land the Welsh Commissioners, the Ecclesiastical Commissioners, and Queen Anne's Bounty shall, as respects such land respectively, have the like powers as if they had been appointed by the court under section thirty-three of the Trustee Act, 1893, to convey the land, and section thirty-four of that Act shall apply accordingly.

### **33 Provisions as to building charges**

- (1) As respects the charges on the emoluments of ecclesiastical offices in the Church in Wales created in favour of Queen Anne's Bounty under the Clergy Residences Repair Act, 1776, the Pluralities Act, 1838, the Ecclesiastical Dilapidations Act, 1871, the Ecclesiastical Commissioners Act, 1836, or the Ecclesiastical Commissioners Act, 1840, as amended or extended by any subsequent enactment, which are subsisting at the passing of this Act, Queen Anne's Bounty shall, as soon as may be after the passing of this Act, ascertain and by order declare which of those charges were created for securing money raised for the purpose of property to be transferred to a county council, and where raised partly for the purpose of such property and partly for the purpose of other property may by their order make such apportionment as may be necessary.

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- (2) On the determination of the existing interest of the holder of any such ecclesiastical office in the emoluments of his office, the charge comprised in such an order as aforesaid, or the apportioned part thereof, shall become a charge on the property for the purposes to which the money was raised, and on the county fund of the county to which the property is transferred, and all other property shall be exonerated therefrom. In other cases the charge shall on such determination become a charge on the property for the time being vested in the representative body, and all other property shall be exonerated therefrom.
- (3) Orders of Queen Anne's Bounty under this section shall be made with the concurrence of the Welsh Commissioners or, in default of such concurrence, with the approval of His Majesty the King in Council given on the advice of the Judicial Committee of the Privy Council.
- (4) Nothing in this Act shall affect any such charge as aforesaid whilst the existing interest of the holder of the ecclesiastical office in the emoluments of his office continues.

### **34 Power to settle differences and make adjustments**

The Welsh Commissioners shall have power to decide any question arising under this Act between different local authorities, and to make any adjustment of rights or liabilities incidental to the distribution of property under this Act among such local authorities.

### **35 Adjustment of debts and liabilities**

- (1) The authorities interested (including the Welsh Commissioners, the Ecclesiastical Commissioners, Queen Anne's Bounty, the representative body, the University of Wales, and any local authority) may make agreements for adjusting or apportioning any property, income, debts, liabilities, and expenses, so far as affected by this Act, or by any scheme or order under this Act, of the parties to the agreement.
- (2) The agreement may provide for the transfer or retention of any property, debts, or liabilities, with or without any conditions and for the joint use of any property, and for payment by either party to the agreement in respect of property, debts, or liabilities so transferred or retained, or of joint user, or in respect of the salary or remuneration of any officer or person.
- (3) The power to make such agreements shall, in the case where parts of property subject to a charge are under this Act transferred to different bodies, include a power for the Welsh Commissioners and the representative body to agree as to the body by which or the proportions in which the several bodies are as between themselves to be liable for the charge, but nothing in such an agreement shall prejudice the right of any such person to any such charge or any charge under statute or otherwise for the recovery thereof or any part thereof.
- (4) In default of agreement, and as far as any such agreement does not extend, any adjustment required for the purposes of this Act shall be referred to arbitration.

### **36 Arbitration**

Any arbitration under this Act shall be conducted in accordance with the Arbitration Act, 1889, and the arbitrator shall have power to disallow as to costs in the arbitration



the costs of any witness whom he may consider to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement under the last foregoing section might have provided.

### **37 Appointment of notaries public**

As from the date of disestablishment the powers of the Archbishop of Canterbury in respect to the appointment of notaries public to practise in districts wholly within Wales or Monmouthshire shall be transferred to the Lord Chancellor.

### **38 Interpretation**

(1) In this Act, unless the context otherwise requires,—

The expression "existing " means existing at the passing of this Act:

The expression " ecclesiastical office " means any bishopric, ecclesiastical dignity, or preferment within the meaning of the Church Discipline Act, 1840, and includes any lay office in connection therewith, or in connection with any cathedral corporation :

The expression " cathedral corporation " means any dean and chapter, and also any corporation of minor canons, or vicars choral, or any other subordinate corporation of or belonging to or connected with any cathedral or collegiate church in Wales :

The expression " ecclesiastical person " means a bishop and the holder of any ecclesiastical office who is in holy orders:

The expression " parochial benefice " has the same meaning as "benefice "in the Incumbents Resignation Act, 1871:

The expression " right of patronage " includes any advow-son, right of presentation, or right of nomination to an ecclesiastical office :

The expression " synod " includes any assembly or convention:

The expression " property " includes all property, real and personal, including things in action and rights of action ; and where any property is held in trust for or for the benefit of the holder of any ecclesiastical office as such, or for any cathedral or ecclesiastical corporation, that property shall be deemed for the purposes of this Act to belong to that office or corporation; and the burial ground of any ecclesiastical parish shall, unless provided under the Burial Acts, 1852 to 1906, or the Public Health (Interments) Act, 1879, or otherwise vested in any local or other public authority, be deemed for the purposes of this Act to be property belonging to an ecclesiastical office in the Church in Wales :

The expression " church " includes cathedral and other churches, chapels of ease, and other public chapels of the Church in Wales and in the case of a cathedral church includes the chapter house and cloisters and other precincts of the cathedral church :

The expression " ecclesiastical residence " means any parsonage house and any house of residence provided for an assistant curate and any house of residence of any bishop or member or officer of a cathedral corporation and any offices belonging thereto :

The expression " house " includes any curtilage or garden appurtenant to or usually occupied with the house :

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The expression "burial authority" means any burial board and any council, committee, or other local authority having the powers and duties of a burial board under the Burial Acts, 1852 to 1906, and any local authority (other than a rural district council) maintaining a cemetery under the Public Health (Interments) Act, 1879, or under any local Act:

The expression "tithe rentcharge" includes all payments in lieu of or in the nature of tithes or tithe rentcharge :

The expressions "first fruits" and "tenths" include any , sums payable in lieu of first fruits and tenths, but annual sums in lieu of first fruits payable at such times and in such manner as tenths are payable shall be treated as included in the expression "tenths" :

The expression "county" includes a county borough, and the expression "county council" includes the council of a county borough, and "county fund" in relation to a county borough means the borough fund or borough rate.

- (2) Property shall not for the purposes of this Act be deemed to be situate in Wales or Monmouthshire by reason only of being invested in the stocks, funds, or securities of any company owning property so situate.
- (3) In all enactments, deeds, and other documents in which mention is made of the Church of England, the enactments and provisions relating thereto shall be construed as including the Church in Wales, but as to that Church subject to the provisions of this Act.
- (4) For removing doubts it is hereby declared that the Principal or other member of Jesus College, Oxford, who may from time to time be rector of Llandyssil, shall as such be treated as a lay impropriator and not as the holder of an ecclesiastical office.

### **39 Short title**

This Act may be cited as the Welsh Church Act, 1914.