

## GENERAL SYNOD

## CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) MEASURE

## Explanatory Memorandum

**Background and summary**

1. The draft Measure is the twelfth in a series of Miscellaneous Provisions Measures dealing with uncontroversial matters that do not merit separate, free-standing legislation.
2. The annex shows the text of enactments as proposed to be amended by the provisions of the draft Measure where the effect of an amendment is not readily apparent from the Measure itself. The note on a clause is marked \* where the textual effect of an amendment is shown in the annex.

**Notes on clauses*****Clause 1 Power to make grants to the Archbishops' Council***

3. Clause 1 creates a new power for the Church Commissioners to make grants out of their general fund to the Archbishops' Council.
4. The purposes for which the Church Commissioners' funds can be applied are provided for in a number of statutory provisions. Examples of these purposes include the payment of bishops' stipends and their costs of office, the payment of certain costs associated with cathedrals, the payment of costs associated with certain pensions, and the making of additional provision for the cure of souls in parishes where such assistance is most required.
5. The Church Commissioners currently have no power that would enable them to apply their funds towards furthering the mission and work of the Church of England generally.
6. The new power would enable the Church Commissioners to support the work and mission of the Church of England more generally by making grants to the Archbishops' Council whose objects are wider than those of the Church Commissioners. A grant could be made by the Church Commissioners under the new power for any purpose that came within the Archbishops' Council's objects which are "to co-ordinate, promote, aid and further the work and mission of the Church of England" (section 1, National Institutions Measure 1998).

***Clause 2 Land registration: removal of requirement for certificate on disposals***

7. Clause 2 is a technical amendment to remove the anomalous continuing requirement by the Land Registry for a certificate from the Church Commissioners in respect of any disposal of benefice property registered in the name of an incumbent.

***Clause 3 Marriage: licensing of chapel during suspension period in benefice***

8. Clause 3 amends section 20 of the Marriage Act 1949.
9. Under section 20 of the Marriage Act, the bishop is given the power to license a public chapel for the publication of banns and the solemnization of marriages. Before doing so, the bishop is required to obtain the consent of the incumbent of the benefice in which the chapel is situated; alternatively, the bishop can licence a chapel without the consent of the incumbent if

the bishop has served formal notice of intention to do so on the incumbent and has inquired into any reasons given by an incumbent who refuses consent.

10. The requirement to seek consent from the incumbent means that where a suspension period is in force in respect of a benefice and a priest in charge has been appointed it is not possible for the bishop to licence a chapel within that benefice (as a priest in charge is not an incumbent). The amendment made by clause 3 provides for section 20 of the Marriage Act to be read as if references to the incumbent were references to the priest in charge in those circumstances.

#### ***Clause 4 Funerals: conduct***

11. Clause 4 widens the scope for the provision of funeral ministry by clergy who are beneficed, licensed or have permission to officiate. It also amends the Order for the Burial of the Dead in the Book of Common Prayer.
12. As the law currently stands a funeral service at a cemetery or crematorium may be performed by the minister of the parish where the deceased died, resided or was on the church electoral roll. There is currently no provision which enables assistant or retired clergy, or licensed lay persons, to officiate at a funeral at a cemetery or crematorium even if they are asked to do so by the deceased's minister or by the family or friends of the deceased.
13. Subsections (1) to (4) of clause 4 provide authority for any member of the clergy who has a current authority to minister in the Church of England to perform a funeral service at a cemetery, crematorium or other non-parochial setting if asked to do so by the persons concerned, and having sought the goodwill of the deceased's own minister. (The requirement to seek the goodwill of the deceased's minister has been adopted from Canon B 22 which requires a minister to seek the goodwill of the minister of the parents' home parish before baptising an infant from outside the parish.)
14. Subsections (5) to (7) amend section 2 of the Church of England (Miscellaneous Provisions) Measure 1992.\* That section currently enables – and in certain circumstances requires – the minister of a parish to perform a funeral service in a cemetery or crematorium if the deceased died or was resident in the minister's parish or was on the church electoral roll. It does not provide for the minister to delegate the performance of the funeral service to, for example, an assistant curate or a reader. The amendments made by subsections (5) to (7) will provide for the minister of the parish to arrange for another member of the clergy or a suitably licensed lay person to perform the funeral in his or her place.
15. Subsection (8) removes the first rubric at the beginning of the Order for the Burial of the Dead in the Book of Common Prayer. That rubric provides that the service may not be used “for any that die unbaptized, or excommunicate, or have laid violent hands upon themselves”. If Amending Canon No. 37 is finally approved and enacted, the rubric will cease to reflect the canonical position and will therefore need to be removed. (Should Amending Canon No. 37 not be finally approved or enacted, the Revision Committee will be advised to omit this subsection.)

#### ***Clause 5 Bishops: delegation of functions to other bishops***

16. Clause 5 puts it beyond doubt that the bishop of a diocese, as Ordinary, may commit non-statutory episcopal functions to another bishop of the Church of England.
17. Section 15(1) of the Dioceses Measure 1978 (now repealed) abolished the power of a diocesan bishop to give a commission to a suffragan bishop. The view of the Legal Advisory

Commission is that the abolition was concerned only with the statutory commissioning of a suffragan under the Suffragan Bishops Act 1534 and was not intended to prevent a diocesan committing the exercise of non-statutory episcopal functions such as carrying out confirmations or ordinations to another bishop. (If that were not the position, it would now be necessary for the performance of those rites by, for example, a retired assistant bishop in the diocese to be authorised by way of a formal instrument of delegation under section 13 of the Dioceses, Pastoral and Mission Measure 2007.)

18. Clause 5 removes any remaining doubt as to the position.

### **Clause 6 Terms of service**

19. Clause 6 makes various amendments to legislation relating to terms of service.
20. Subsection (1) amends the Ecclesiastical Offices (Age Limit) Measure 1975.\* That Measure provides that the term of certain offices – including all offices held under common tenure – automatically ceases when the holder of the office reaches the age of 70. However, a minority of those who hold office under common tenure hold office under a contract of employment; in particular, hospital and other sector chaplains. Any provision as to retirement for these office holders should be contained in their contract of employment. It is inconsistent with that for legislation to provide for the automatic termination of their office on reaching a particular age. Subsection (1) therefore removes those who hold office under a contract of employment from the scope of the 1975 Measure.
21. Subsection (2) amends section 11 of the Church of England (Miscellaneous Provisions) Measure 1992 to bring the method of resignation by freehold incumbents into line with that for incumbents on common tenure.
22. As the law currently stands, an office holder on common tenure may resign by giving three months' notice in writing to the bishop (subject to the possibility of both parties agreeing to waive the notice period). But a freehold incumbent who wishes to resign must either execute a deed or tender resignation in the statutory form provided in Schedule 2 to the Church of England (Miscellaneous Provisions) Measure 1992.
23. Subsection (2) allows a freehold incumbent to resign simply by giving three months' written notice to the bishop. The notice period can be waived if both the incumbent and the bishop agree.
24. Subsection (3) is a consequential amendment and repeals Schedule 2 to the 1992 Measure.
25. Subsection (4) amends section 1 of the Ecclesiastical Offices (Terms of Service) Measure 2009\* to address an anomaly relating to deaconesses, readers and lay workers. These office holders are able, in certain circumstances, to conduct funeral services. Where they do so, the diocesan board of finance may have agreed that they may receive the parochial fee payable to the board (or part of it). If so, that could amount to an emolument of office such as to bring the deaconess, reader or lay worker within common tenure and all that entails.
26. The intention of section 1 of the 2009 Measure, so far as deaconesses, readers and lay workers are concerned, was that they should be subject to common tenure only if they were stipendiary or held office on a house for duty basis. It was not intended to make those who carried out occasional funeral duty subject to common tenure. Subsection (4) gives effect to that intention by providing that the receipt by a deaconess, reader or lay worker of parochial fees pursuant to a decision of a diocesan board of finance does not amount to that person

receiving ‘emoluments of office’ – and therefore ensures that they do not become subject to common tenure.

27. Subsection (5) inserts a new subsection into section 2 of the Ecclesiastical Offices (Terms of Service) Measure\* to make it clear that regulations made under that section may include provision enabling a person to exercise a discretion. Because regulations previously made under that section assumed that such provision could be made by regulations, subsection (6) provides for the new subsection to have retrospective effect.
28. Subsection (7) removes regulation 5(3) from the Ecclesiastical Offices (Terms of Service) Regulations 2009 on the basis that the provision it makes in relation to pensions and contracted-out employment is no longer applicable.
29. Subsection (8) substitutes a new regulation 23 in the Ecclesiastical Offices (Terms of Service) Regulations 2009 so that the provision in respect of maternity, parental, adoption etc. leave and time off for carers is all dealt with in the Regulations themselves rather than partly in the Regulations and partly in directions. The substance of the provision is unchanged.
30. Subsection (9) revokes the directions which are replaced by the provision contained in the new regulation 23. Subsection (10) validates the previous operation of the directions which are to be revoked.
31. Subsection (11) makes it clear that the new regulation 23 can be subject to further amendment by future regulations in spite of its having been inserted by primary legislation (and so avoid any doubt there might otherwise be as to the power to make such amendments).
32. Subsection (12) repeals section 13 of the Mission and Pastoral etc. (Amendment) Measure on the basis that, since that Measure was given final approval, section 13 has been superseded by the Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 2017 which now make comprehensive provision for the holding of office beyond the age of 70.

### ***Clause 7 Provincial courts: decisions to be binding in both provinces***

33. Subsection (1) of clause 7 amends the Ecclesiastical Jurisdiction and Care of Churches Measure 2017 by inserting a new section 14A. The new section will provide that a decision of the Court of Arches or the Chancery Court of York is binding not only in the province for which that court is constituted as the appeal court but also in the other province. It makes supplementary provision to deal with the situation where there are conflicting decisions of the appeal courts so that the more recent decision will normally prevail.
34. Subsection (2) makes a consequential amendment to the Ecclesiastical Jurisdiction Measure 1963 and subsection (3) applies the new section 14A to decisions of the appeal courts that were made before that section comes into force (as well as to those which are made after that).

### ***Clause 8 Fees***

35. Subsection (1) of clause 8 amends section 1 of the Ecclesiastical Fees Measure 1986\* so that parochial fees are not payable to a parochial church council or diocesan board of finance where the relevant duty is carried out in the course of a person’s employment by a university, college, school or public or charitable institution.
36. Subsection (2) amends the table in Schedule 1 to the Registration of Births, Deaths, Marriages and Civil Partnerships (Fees) Regulations 2016\* so that the fees payable for quarterly returns and for certified copies of entries in marriage registers are paid to parochial church councils

rather than to incumbents. Subsection (3) ensures that the Secretary of State's power to make amending regulations is unaffected.

37. Subsection (4) amends section 84 of the Ecclesiastical Jurisdiction and Care of Churches Measure\* to alter the composition of the Fees Advisory Commission. Instead of one of the members of the Commission having to be a member of the House of Bishops, one member will be a diocesan or suffragan bishop nominated by the House of Bishops regardless of whether he or she is a member of the House.
38. Subsection (5) inserts new subsections (5A) to (5D) in section 85 of the Ecclesiastical Jurisdiction and Care of Churches Measure\* to enable the Fees Advisory Commission to conduct its business by correspondence where appropriate and to delegate the approval of urgent matters to its Chair.
39. Subsection (6) inserts a new subsection (4A) in section 86 of the Ecclesiastical Jurisdiction and Care of Churches Measure\* so that a fees order may provide for the amount of a court fee to be determined by a court, ecclesiastical judge or other official, or by reference to other statutory provision, instead of the amount of the fee being stated in the fees order itself. Subsection (7) gives retrospective effect to the new subsection (4A) on the basis that fees orders have previously been made on the assumption that such provision could be made in a fees order.

#### ***Clause 9 Timing of sessions and membership of House committees***

40. Clause 9 amends the Constitution of the General Synod, which is set out in Schedule 2 to the Synodical Government Measure 1969.\*
41. Subsections (2), (3) and (5) provide a secure legal basis, with retrospective effect, for the power contained in Standing Order 2(5) of the Synod's Standing Orders which allows the Archbishops to alter the weeks determined, or the days, times and places appointed, for a session or group of sessions and to cancel a session or group of sessions.
42. Subsection (4) amends Article 10(3) of the Constitution, which allows the Standing Orders of the three Houses of the Synod to provide for committees of the House concerned, to enable such committees to include persons who are not members of that House.

#### ***Clause 10 and the Schedule Legal Aid Commission: rules***

43. Clause 10 and the Schedule make a number of changes to the framework for the administration of ecclesiastical legal aid, which is contained in the Church of England (Legal Aid) Measure 1994 and the Church of England (Legal Aid) Rules 1995.
44. Clause 10 amends section 4 of the 1994 Measure, with retrospective effect, so that rules made under it may allow the delegation of a discretion so that rules under that section can allow a body or individual (for example, the Legal Aid Commission or the Chair or Secretary) to exercise a discretion when dealing with a matter.
45. The Schedule amends the 1995 Rules in various respects in order to facilitate the administration of ecclesiastical legal aid by the Legal Aid Commission.

46. Paragraph 2(1) adds a new paragraph (1A) to rule 5, making provision for the election by the Commission of one of its members to undertake certain specified functions when the Chair of the Commission is unable to undertake them.
47. Paragraph 2(2) amends rule 5(2) so as to enable the Commission to conduct its business by correspondence where appropriate and to delegate urgent decisions to its Chair.
48. Paragraph 2(3) and (4) amend rules 5 and 10 so as to allow the Commission's deputy secretary to act in the place of its secretary generally, when required, rather than only for the purpose of issuing interim legal aid certificates.
49. Paragraph 3 amends rule 6 so as to allow notices or documents to be sent or served by electronic means as well as in paper form.
50. Paragraph 4 amends rule 11 so that, in the event of a tied decision on an application for legal aid, the Chair has a second, casting vote.
51. Paragraph 5 amends rule 15 in a similar manner in relation to decisions to discharge or revoke a legal aid certificate. It also corrects a textual error.
52. Paragraph 6(1) amends rule 26 by inserting a new paragraph (4A) to enable the Chair, in consultation with the secretary, to assess costs where a certificate has been granted under the interim procedure or where costs do not exceed £2,000. Paragraphs (4) to (6) make consequential amendments.
53. Paragraph 6(2) inserts a new paragraph (4B) into rule 26 so that the Commission has power to request certain information and documentation in relation to an assessment.
54. Paragraph 6(3) increases the threshold below which an assessment of costs by the Commission may take place from £1,000 to £3,000.
55. Paragraph 7 inserts a new rule 28 to give the Commission the power to revoke a legal aid certificate if, without good reason, there is a delay of greater than 3 months in submitting a bill of costs.

### ***Clause 11 Execution of documents***

56. Subsections (1) and (2) of clause 11 amend section 9 of the Church Commissioners Measure 1947 by the insertion of new subsections (3A) and (3B) which provide that two officers of the Church Commissioners, who have been authorised by the Board for that purpose, may execute documents by signature to take effect as if made under common seal. Any relevant delegation of authority has effect subject to any limitations or conditions as are specified. This amendment provides an additional method by which the Commissioners may execute documents and would allow the Board to carry out its functions with greater efficiency.
57. Subsection (3) amends section 21 of the Clergy Pensions Measure 1961 by the insertion of new subsections (13A) to (13E) which make analogous provision for the execution of documents by the Church of England Pensions Board and which render section 21 consistent with section 9 of the Church Commissioners Measure 1947.
58. Subsection (4) amends Schedule 1 to the National Institutions Measure 1998 by the insertion of new paragraph 12A which makes analogous provision for the execution of documents by

the Archbishops' Council and which renders Schedule 1 consistent with section 9 of the Church Commissioners Measure 1947.

59. Subsection (5) amends section 3 of the Parochial Church Council (Powers) Measure 1956 by the insertion of new subsections (3) to (5) which make analogous provision for the execution of instruments by parochial church councils and which render section 3 consistent with the provisions set out above.
60. Subsections (6) and (7) clarify that where a relevant body, as defined in subsection (7), executes a document or instrument by signature under a relevant provision, as defined in subsection (7), such execution will take effect as if the document were made under seal. The document or instrument comes into force when it is signed in accordance with the relevant provision, i.e. in each case when the second signature is made.
61. Subsection (8) makes a minor amendment in relation to the specified enactments. By convention, instruments do not come into force before they are laid before Parliament in accordance with the Statutory Instruments Act 1946. At present, the relevant enactments require that in each case a subordinate instrument comes into force when sealed, rather than laid. This technically requires a relevant instrument to be laid on the date on which it is sealed which may not be possible. This amendment imports greater flexibility as to commencement.
62. Subsection (9) gives the amendments made by subsection (8) retrospective effect.

#### ***Clause 12 Delegation and casual vacancies***

63. Subsection (1) of clause 12 amends section 37 of the Ecclesiastical Jurisdiction and Care of Churches Measure by the insertion of a new subsection (9A) which provides that a diocesan advisory committee may delegate the exercise of any its functions to an officer. In an appropriate case, this would allow a committee to delegate a decision where it would be disproportionate to convene a meeting of the full committee.
64. Subsection (2) amends Schedule 4 to the Dioceses, Pastoral and Mission Measure 2007 by the insertion of a new paragraph 22A which allows the Church Buildings Council to delegate functions to an officer. In an appropriate case, this would allow the Council to delegate a decision where it would be disproportionate to convene a meeting of the Council.
65. Subsection (3) amends paragraph 10 of Schedule 1 to the Dioceses, Pastoral and Mission Measure 2007\* so that a person may be appointed to fill a casual vacancy in the office of chair in the same manner as the chair being replaced (i.e., by the Archbishops with the approval of the General Synod). This avoids an anomaly whereby, under paragraph 10 as presently in force, a chair must be selected from the House of Laity or Clergy to fill a casual vacancy but ordinarily the person appointed need not be chosen from among the members of either House.

#### ***Clause 13 Disqualification as trustee***

66. Subsection (1) amends section 4(4) of the Cathedrals Measure 1999\* to provide that a person will be disqualified from service as a member of a Chapter if they have been disqualified from serving as a charity trustee by an order of the Charity Commission pursuant to section 181A of the Charities Act 2011.

67. Subsection (2) is a transitional provision in respect of the effect of subsection (1).
68. Subsection (3) amends section 2(1) of the Churchwardens Measure 2011\* to provide that a person will be disqualified from service as a churchwarden if they have been disqualified from serving as a charity trustee by an order of the Charity Commission pursuant to s. 181A of the Charities Act 2011.
69. Subsection (4) is a transitional provision in respect of the effect of subsection (3).

**Clause 14 Provision of services to PCC by member**

70. A parochial church council is a charity and its members are in the position of ‘charity trustees’. As such, they are not entitled to receive any ‘benefit’ from the PCC unless they are authorised to do so. One way in which the necessary authority can be obtained is by exercising the power conferred by section 185 of the Charities Act 2011, which allows charity trustees generally, and persons connected with them, to receive remuneration for services provided to their charity, as long as certain conditions are met. However, that power does not extend to benefits in the form of remuneration under a contract of employment.
71. In order to provide a similar procedure which did extend to benefits received under contracts of employment, section 5(2) of the Church of England (Miscellaneous Provisions) Measure 2014 introduced a new section 3A into the Parochial Church Councils (Powers) Measure 1956 allowing a PCC to enter into a paid contract of employment or other contract with a member of the PCC, or a person connected with them, again provided certain conditions were met.
72. It has since become clear that the power conferred by the 2014 Measure is unsatisfactory in certain respects. Clause 14 will accordingly repeal it and secure the end it was intended to achieve by inserting a new section 7A into the 1956 Measure which will provide that, in its application to a PCC, section 185 of the 2011 Act will apply *as if it did not* exclude benefits in the form of remuneration for services provided under a contract of employment. PCCs will therefore be able to rely on the procedure set out in section 185 even in cases in which the remuneration is to be provided under a contract of employment.
73. Subsection (4) will preserve the effect of the power conferred by the 2014 Measure in relation to contracts that have previously been entered into in reliance on it.

**Clause 15 Short title, commencement and extent**

74. Clause 15 provides for the citation of the Measure, for its commencement and for its territorial extent.

## The text of enactments as amended

*This annex shows the text of enactments as proposed to be amended by the provisions of the draft Measure where the effect of an amendment is not readily apparent from the Measure itself.*

### Section 2, Church of England (Miscellaneous Provisions) Measure 1992

#### Conduct of funeral services

*amendments made by clause 4(5) to (7)*

- (1) The performance of a funeral service in accordance with this section shall not require the consent or be subject to the control of the minister of the parish in which it is performed.
- (2) The minister of a parish may perform or arrange the performance of a funeral service in any crematorium or cemetery situated in another parish if--
  - (a) the deceased person dies in the first-mentioned parish; or
  - (b) the deceased person was resident in the first-mentioned parish immediately before his death; or
  - (c) the name of the deceased person was on the church electoral roll of the first-mentioned parish immediately before his death.
- (3) Without prejudice to section 2 of the Extra-Parochial Ministry Measure 1967, a person licensed for the time being under that section to perform funeral services on premises forming part of or belonging to a university, college, school, hospital or public or charitable institution may perform a funeral service in any crematorium or cemetery if the deceased person was resident in any such premises or was employed by or enrolled as a student at the institution in question immediately before his death.
- (4) The minister of a parish situated wholly or partly in an area--
  - (a) which is chargeable with the expenses of a cemetery; or
  - (b) for the use of which a crematorium or cemetery has been designated by the bishop of the diocese concerned,

shall, with respect to persons who are his own parishioners or who die in his parish or whose names are entered on the church electoral roll of his parish, where he is requested to do so, be under the same obligation (subject to subsection (4A)) to perform or arrange the performance of funeral services in the crematorium or cemetery as he has to perform or arrange the performance of funeral services in any churchyard of his parish.

(4A) Each of the following may perform a funeral service under an arrangement made under subsection (2) or (4) –

- (a) clerk in Holy Orders who is authorised to officiate in accordance with the Canons of the Church of England;
- (b) a duly licensed deaconess, reader or lay worker.
- (5) . . .
- (6) In this section--

"minister", in relation to a parish, means--

- (a) the incumbent;

- (b) in a case where the benefice to which the parish belongs is vacant (and paragraph (c) below does not apply), the rural dean;
- (c) in a case where a suspension period applies to the benefice to which the parish belongs, the priest-in-charge (if any); and
- (d) in a case where a special cure of souls in respect of the parish has been assigned to a vicar in a team ministry by a scheme under the Pastoral Measure 1983 or by his licence from the bishop, that vicar;

"suspension period" has the same meaning as in the Pastoral Measure 1983.

**Section 1, Ecclesiastical Offices (Age Limit) Measure 1975**  
**Age limit for appointment, etc. to certain ecclesiastical offices**  
*amendment made by clause 6(1)*

- (1) Subject to subsection (2) of this section, no person shall be capable of being appointed or presented to an office listed in the Schedule to this Measure if at the time of his appointment or presentation he has attained the age of seventy years.
- (2) Subsection (1) of this section shall not apply to an office in a Royal Peculiar nor to the office of residentiary canon in a cathedral church if the canonry is annexed to a professorship in a university nor to the office of dean of the Cathedral Church of Christ in Oxford.
- (3) Subject to the following provisions of this Measure, a person who holds an office listed in the Schedule to this Measure shall vacate that office on the day on which he attains the age of seventy years.
- (3A) Neither subsection (1) nor subsection (3) shall apply to an appointment made or continued in reliance on regulation 29A of the Ecclesiastical Offices (Terms of Service) Regulations 2009 (cases where person may hold office after attaining the age of 70).
- (3B) Neither subsection (1) nor subsection (3) shall apply to an office held under a contract of employment.
- (4) Subsection (3) of this section shall not apply to--
  - (a) any person who holds an office in a Royal Peculiar; or
  - (b) any person who holds a residentiary canonry which is annexed to a professorship in a university; or
  - (c) any person who holds the office of dean of the Cathedral Church of Christ in Oxford; or
  - (d) any person who at the commencement of this Measure holds any office listed in the said Schedule unless and until he vacates the office held by him at the said commencement.
- (5) The foregoing provisions shall have effect notwithstanding anything in any Measure passed before the date of the passing of this Measure, or in any instrument made under such a Measure or in the constitution and statutes of a cathedral church.

## **Ecclesiastical Offices (Terms of Service) Measure 2009**

### **Section 1**

#### **Common Tenure**

*amendment made by clause 6(4)*

(1) Subject to the provisions of this section, this Measure shall apply to each of the following holders of ecclesiastical offices--

- (a) the Archbishops of Canterbury and York;
- (b) any diocesan bishop;
- (c) any suffragan bishop;
- (d) any dean, residentiary canon or other person in holy orders holding a stipendiary office in a cathedral;
- (e) any archdeacon;
- (f) any incumbent;
- (g) any person in holy orders who exercises his or her office or ministry in accordance with a licence from the bishop of the diocese in which the office is exercised issued under any Canon of the Church of England; and
- (h) any deaconess, reader or lay worker who exercises his or her office or ministry in accordance with a licence from the bishop of the diocese in which the office is exercised issued under any Canon of the Church of England and who receives a stipend or other emoluments of office (including the provision of accommodation) in respect of his or her office,  
who--
  - (i) in the case of any such person as is referred to in paragraphs (a), (g) and (h) above, holds office on or is appointed to his or her office after the coming into force of this section,
  - (ii) in the case of any residentiary canon appointed for a term of years, holds office on the coming into force of this section, and
  - (iii) in the case of any other person referred to in this subsection, holds office on the coming into force of this section and has agreed to the application of this Measure to him or her in accordance with subsections (4) and (5) below or is appointed to his or her office after the coming into force of this section.

(1A) The reference in subsection (1)(h) to emoluments of office does not include a reference to fees which, pursuant to a decision of the Diocesan Board of Finance, have been paid to a deaconess, reader or lay worker in respect of a matter set out in Schedule A1 to the Ecclesiastical Fees Measure 1986.

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### **Section 2**

#### **Regulations**

*amendment made by clause 6(5)*

- (1) The Archbishops' Council shall, in accordance with the following provisions of this section, by Regulations make provision for the terms of service of persons holding office under Common Tenure (in this Measure referred to as "office holders").
- (2) Without prejudice to the generality of subsection (1) above Regulations may--

- (a) provide, in such circumstances as may be specified in the Regulations, for appointments of limited duration;
- (b) confer rights and obligations on office holders and other persons and bodies, including protection for office holders against unfair dismissal;
- (c) provide for the terms on which housing is provided for office holders and for the respective rights, powers and obligations of office holders and the providers of housing to them;
- (d) provide for procedures to assess the performance of office holders, including remedies for inadequate performance;
- (e) provide for rights of review or appeal and the use of employment tribunals to adjudicate on disputes;
- (f) provide for specified persons or bodies to be responsible for bringing or defending proceedings and for the payment of costs, expenses and compensation; and
- (g) provide for different cases and circumstances and contain transitional, incidental and consequential provisions.

(2A) Regulations may provide for the exercise of a discretion.

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## **Section 1, Ecclesiastical Fees Measure 1986**

### **Preparation of Parochial Fees Order**

*amendment made by clause 8(1)*

(1) The Archbishops' Council may prepare a draft of an order (to be known as a "Parochial Fees Order") which prescribes, subject to subsection (8), the amount of the parochial fees payable to a parochial church council or to a diocesan board of finance or to both in respect of the matters set out in Schedule A1 where those matters relate to duties carried out by a clerk in holy orders or by a duly licensed deaconess, reader or lay worker.

(1A) Subsection (1) does not apply to matters which relate to duties carried out in the course of employment by a university, college, school, hospital or public or charitable institution.

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## **Schedule 1, Registration of Births, Deaths, Marriages and Civil Partnerships (Fees)**

### **Regulations 2016**

#### **Fees Payable**

*amendments made by clause 8(2)*

12	Marriage Act 1949 section 57(1)	Sum paid by superintendent registrar upon the delivery under section 57(1) of a certified copy of an entry in a marriage register book	£2.00	The <del>incumbent</del> <u>parochial church council of the parish containing the church or chapel in which the marriage register book is kept</u> or the authorised person with custody of the marriage register book
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13	Marriage Act 1949 section 63	Certified copy of entry in a marriage register book--		
		(a) when application is made at the time of registration	£4.00	The <del>incumbent</del> <u>parochial church council of the parish containing the church or chapel in which the marriage register book is kept</u> , registering officer of the Society of Friends, secretary of a synagogue, the authorised person with custody of the marriage register book, or registrar providing the copy
		(b) when application is made to a registrar after the time of registration	£7.00	The registrar
		(c) in any other case	£10.00	The <del>incumbent</del> <u>parochial church council of the parish containing the church or chapel in which the marriage register book is kept</u> , registering officer of the Society of Friends, secretary of a synagogue, or authorised person with custody of the marriage register book

## **Ecclesiastical Jurisdiction and Care of Churches Measure 2017**

### **Section 84**

#### **Fees Advisory Commission: continuation and membership**

*amendment made by clause 8(4)*

- (1) There is to continue to be a body known as the Fees Advisory Commission.
- (2) The members of the Commission are—
  - (a) ~~one person who is a member of the House of Bishops nominated by that House~~ one person who is a diocesan or suffragan bishop nominated by the House of Bishops (regardless of whether that person is a member of that House);
  - (b) one person who is a Church Commissioner or an officer of the Church Commissioners nominated by them;
  - (c) one person who is the chair of a diocesan board of finance nominated by representatives of dioceses (see subsection (4));
  - (d) one person who is the registrar of a diocese nominated by the Ecclesiastical Law Association (see subsection (5));

- (e) one person who is the chancellor of a diocese nominated by the Ecclesiastical Judges Association (see subsection (6));
- (f) either the registrar of the province of Canterbury or the registrar of the province of York, whichever of them is nominated by the two registrars acting jointly;
- (g) three persons appointed by the Appointments Committee of the Church of England (see subsection (7)).

## **Section 85**

### **Fees Advisory Commission: term of office and procedure**

#### *amendments made by clause 8(5)*

- (1) As soon as practicable after each ordinary election of the General Synod, new members of the Fees Advisory Commission are to be nominated or appointed in accordance with section 84.
  - (2) A member of the Commission holds office until a new member is nominated or appointed to replace him or her under subsection (1).
  - (3) If a member of the Commission dies or resigns from office, the persons responsible for nominating or appointing the member under section 84 must, as soon as practicable, nominate or appoint in accordance with that section a person to fill the vacancy.
  - (4) A person nominated or appointed under subsection (3) holds office only for the unexpired portion of the term of office of the person whose place is being filled.
  - (5) A member of the Commission (including one nominated or appointed under subsection (3)) is eligible for renomination or reappointment.
- (5A) If the chair of the Commission considers that it has business which can properly be conducted by correspondence, the chair may arrange for written proposals requiring the Commission's approval to be circulated to members.
- (5B) Unless objection is received from members in such numbers and within such period from the date on which they were sent as the Commission may specify, the proposals are to be treated on the expiry of that period as approved by the Commission as if they had been approved at a duly convened meeting.
- (5C) The Commission may delegate to the chair the approval of any matter which requires decision and which, because of its urgency, cannot be dealt with at a meeting of the Commission or by correspondence as mentioned in subsection (5A).
- (5D) A delegation under subsection (5C)—
- (a) may be general or specific, and
  - (b) is subject to such conditions as the Commission may from time to time impose.
- (6) The quorum of the Commission is three, of whom—
    - (a) one must be a member under section 84(1)(a), (b) or (c),
    - (b) one must be a member under section 84(1)(d), (e) or (f), and
    - (c) one must be a member under section 84(1)(g).
  - (7) Subject to that, the Commission may regulate its own procedure.
  - (8) The validity of anything done by the Commission is not affected by a vacancy in its membership.

**Section 86**  
**Fees orders**

*amendment made by clause 8(6)*

(1) The Fees Advisory Commission must inform itself of the duties of the offices of ecclesiastical judges and the duties of the offices of legal officers and may make recommendations as to the annual fees to be paid to them in relation to such of those duties as it specifies.

(2) The Commission may make recommendations as to the fees to be paid to such persons as it specifies in relation to—

(a) such duties carried out by ecclesiastical judges as it specifies;

(b) such duties carried out by legal officers as it specifies;

(c) such functions carried out by advisory committees or archdeacons in connection with relevant faculty proceedings as it specifies.

(3) The Commission may make an order to give effect to its recommendations under subsection (1) or (2).

(4) An order under this section may contain such incidental provision as the Commission considers necessary or desirable; and the provision which may be made includes, in particular, provision relating to payment for reasonable expenses incurred by ecclesiastical judges or legal officers—

(a) on the holding of court hearings, or

(b) on travel, subsistence and accommodation.

“(4A) An order under this section may provide for a fee, or a matter relating to the payment of a fee, to be determined—

(a) by a court, ecclesiastical judge, legal officer or other person;

(b) by reference to provision made under an Act of Parliament.”

.....

**Schedule 2, Synodical Government Measure 1969**  
**Constitution of the General Synod**

**Article 3**

*amendments made by clause 9(2) and (3)*

(1) The general Synod shall meet in session at least twice a year, and at such times and places as it may provide, or, ~~in the absence of~~ instead of such provision, as the Joint Presidents of the Synod may direct.

(1A) The Presidents’ power under paragraph (1) includes power to cancel a meeting for which the Synod has made provision under that paragraph; and if, as a result of a cancellation, the Synod does not meet in session at least twice in a particular year, it shall nonetheless be treated as having done so for the purposes of that paragraph.

.....

## **Article 10**

*amendment made by clause 9(4)*

.....

(3) Each House may appoint or provide by their Standing Orders for the appointment of such Committees of their members, which may include persons who are not members of that House, as they think fit.

.....

## **Schedule 1, Dioceses, Pastoral and Mission Measure 2007**

### **The Dioceses Commission**

#### **Paragraph 10**

*amendment made by clause 12(3)*

Where a casual vacancy occurs among the members of the Commission appointed by the Archbishops of Canterbury and York under paragraph 2 above the Archbishops shall appoint ~~a person from among the members of the House of Clergy and House of Laity to fill the vacancy~~ a person to fill the vacancy in the same manner as that in which the person whose place is being filled was appointed; and where a casual vacancy occurs among the members appointed by the Appointments Committee under paragraph 3 above the Committee may appoint a person to fill the vacancy.

## **Section 4, Cathedrals Measure 1999**

### **The Chapter**

*amendment made by clause 13(1)*

.....

(4) A person shall be disqualified from being a member of the Chapter if he is disqualified from being a charity trustee under section 178 of the Charities Act 2011 or by an order under section 181A of that Act and the disqualification is not for the time being subject to a waiver by the archbishop of the province concerned under subsection (5) below in respect of that Chapter; and a member who becomes disqualified by virtue of this subsection shall cease to be a member.

.....

## **Section 2, Churchwardens Measure 2001**

### **General disqualifications**

*amendments made by clause 13(3)*

(1) A person shall be disqualified from being chosen for the office of churchwarden if—

(a) he is disqualified from being a charity trustee under section 178 of the Charities Act 2011 and the disqualification is not for the time being subject to a general waiver by the Charity Commission under section 181 of that Act or to a waiver by it under that section in respect of all ecclesiastical charities established for purposes relating to the parish concerned, or

(b) the person is disqualified from being a charity trustee by an order under section 181A of that Act.

In this subsection “ecclesiastical charity” has the same meaning as that assigned to that expression in the Local Government Act 1894 (c 73).