

Church of England (Miscellaneous Provisions) (No. 2) Measure

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Schedule – Amendments to the Care of Cathedrals Rules 2006

DRAFT of a Measure to make miscellaneous provision relating to matters concerning the Church of England.

Religious communities

1 Members of religious communities

- (1) The General Synod may make provision by Canon to enable a bishop to admit into Holy Orders a person who is a member of a religious community.
- (2) After section 2 of the Extra-Parochial Ministry Measure 1967 insert – 5
- “2A Ministry by member of religious community**
- (1) The bishop of a diocese may licence a member of a religious community who is in Holy Orders to perform in the diocese the offices and services specified in the licence for the furtherance of the work and mission of that community. 10
- (2) A licence under this section may not specify the solemnization of marriage.
- (3) The performance of offices or services in accordance with a licence under this section does not require the consent, and is not subject to the control, of the Minister of the parish in which they are performed. 15
- (4) In this section, “religious community” has the meaning given in the Canons.”
- (3) In the Church Representation Rules, set out in Schedule 3 to the Synodical Government Measure 1969, in rule 46(1) (membership of House of Laity), in paragraph (c), omit “having their mother house in either province”. 20
- (4) In rule 84 of those Rules (interpretation: minor definitions), at the appropriate place insert –
- ““religious community” has the meaning given in the Canons;”.
- (5) In section 38 of the Ecclesiastical Jurisdiction and Churches Measure 2018 (the list of places of worship), in subsection (4), at the appropriate place insert – 25
- ““religious community” has the meaning given in the Canons;”.

Clergy

2 National clergy register

- (1) The Archbishops’ Council may by regulations require the bishop of each diocese or the holder of any other specified office in the Church of England to provide the Council, within a specified period, with specified information about each clerk in holy orders, and (if the regulations so specify) each other person, who has authority to exercise ministry in the diocese or other area or place concerned. 30

- (2) The regulations may require a person who is subject to a requirement by virtue of subsection (1) to provide the Archbishops' Council, as frequently as is specified, with specified information about each person –
- (a) who becomes authorised to exercise ministry in the diocese or other area or place concerned, 5
 - (b) whose authority to exercise ministry there is varied, or
 - (c) who ceases to be authorised to exercise ministry there.
- (3) The information which the regulations may specify about a person for the purposes of subsection (1) or (2) includes –
- (a) the person's name and address, 10
 - (b) the form of authority to exercise ministry which the person has,
 - (c) the area, place or activity to which the authority relates, and
 - (d) any limitation of time to which the authority is subject.
- (4) The Archbishops' Council must compile and maintain a register of the information provided to it under the regulations. 15
- (5) The Archbishops' Council must publish and make available free of charge (in each case, whether in electronic form or otherwise) such of the information on the register as the regulations require.
- (6) Regulations under this section may make different provision for different cases. 20
- (7) Regulations under this section may not be made unless –
- (a) a draft of the regulations has been laid before the General Synod and approved by it with or without amendment, and
 - (b) the draft so approved has been referred to the Archbishops' Council.
- (8) On referral of the draft, the Council may – 25
- (a) if the draft was approved without amendment, make the regulations by applying its seal, or
 - (b) if the draft was approved with amendment –
- (i) make the order by applying its seal, or
 - (ii) withdraw the draft for further consideration. 30
- (9) Regulations under this section may not come into force unless they are sealed by the Council.
- (10) If the Business Committee of the General Synod determines that a draft of regulations under this section does not need to be debated by the Synod, the draft is to be treated as approved for the purposes of this section unless a member of the Synod gives notice in accordance with its standing orders that the member – 35
- (a) wishes the draft of the regulations to be debated, or
 - (b) wishes to move an amendment to it.
- (11) The power to make regulations under this section is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies – 40
- (a) as if the regulations had been made by a Minister of the Crown, and
 - (b) as if this Measure were an Act of Parliament providing for the instrument containing the regulations to be subject to annulment in pursuance of a resolution of either House of Parliament. 45

*Ecclesiastical jurisdiction***3 Fees: exemption, reduction or remission**

In section 86 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (fees orders), after subsection (3) insert –

- “(3A) An order under this section may contain provision as to – 5
- (a) exemptions from or reductions in fees;
 - (b) remission of fees in whole or in part.”

*Care of churches***4 Cathedrals: power to vary or revoke approvals**

- (1) In section 8 of the Care of Cathedrals Measure 2011 (application for approval of fabric advisory committee), after subsection (3) insert – 10

“(4) The fabric advisory committee, whether on the application of the Chapter or on its own initiative, may vary or revoke an approval, or a condition of an approval, given under this section.

- (5) The fabric advisory committee may not exercise the power under subsection (4) in a way which would, in its opinion, result in the approval of a proposal substantially different from the proposal originally given approval. 15

- (6) Subsection (3) applies to a decision by the fabric advisory committee to exercise, or not to exercise, the power under subsection (4) as it applies to a decision by it whether to give, or to refuse to give, its approval to a proposal. 20

- (7) For the purposes of subsection (6), subsection (3) has effect as if for paragraph (c) there were substituted –

“(c) to any body or person to whom notice of the original application was required to be sent by virtue of subsection (1)(b),”.” 25

- (2) In section 9 of that Measure (application for approval of Cathedrals Fabric Commission), after subsection (7) insert –

“(7A) The Commission, whether on the application of the Chapter or on its own initiative, may vary or revoke an approval, or a condition of an approval, given under this section (including an approval given by virtue of subsection (8)). 30

- (7B) The Commission may not exercise the power under subsection (7A) in a way which would, in its opinion, result in the approval of a proposal substantially different from the proposal originally given approval. 35

- (7C) Subsection (7) applies to a decision by the Commission to exercise, or not to exercise, the power under subsection (7A) as it applies to a decision by it whether to give, or to refuse to give, its approval to a proposal.” 40

- (3) In section 10 of that Measure (appeal to Cathedrals Fabric Commission), after

- subsection (1) insert –
- “(1A) Where the fabric advisory committee decides to exercise, or not to exercise, the power under section 8(4) to vary or revoke an approval or a condition of an approval, the Chapter may within the prescribed period appeal to the Commission.” 5
- (4) In subsection (3) of that section, after “subsection (1)” insert “or (1A)”.
- (5) In section 11 of that Measure (Commission of Review), in subsection (1), after paragraph (a) and the following “or” insert –
- “(aa) the Commission decides to exercise, or not to exercise, the power under section 9(7A) to vary or revoke an approval or a condition of an approval, or” 10
- (6) In that section, after paragraph (b) insert “or
- (c) on an appeal to the Commission under section 10(1A), the Commission refuses to reverse or vary a decision or any part of a decision by the fabric advisory committee to exercise, or not to exercise, the power under section 8(4) to vary or revoke an approval or a condition of an approval,” 15
- (7) In section 13 of that Measure (registers of applicants), after subsection (1) insert –
- “(1A) Each register kept under subsection (1) must, if an approval dealt with by the body keeping the register is varied or revoked or a condition of such an approval is varied or revoked, record the variation or revocation.” 20
- (8) In section 14 of that Measure (right of appeal by tenant), in subsection (1) –
- (a) after “Where the Commission or a fabric advisory committee” insert “–
- (a) ”, and
- (b) after “subject to conditions,” insert “or
- (b) has decided to exercise, or not to exercise, the power to vary or revoke an approval or a condition of an approval for a proposal for the carrying out of works by a tenant for which the Chapter’s consent is required,” 30
- 5 Disused burial grounds in cathedrals: approval for building, etc.**
- (1) In section 2 of the Care of Cathedrals Measure 2011 (approval required for alterations to cathedrals), after subsection (2) insert – 35
- “(2A) The Chapter of a cathedral shall not implement or consent to the implementation of a proposal for the erection of a building on a disused burial ground the fee simple in which is vested in the corporate body, unless the proposal has been approved under this Measure.
- (2B) The requirement under subsection (2A) for the approval of a proposal is in addition to any requirement under subsection (1) for the approval of the proposal.” 40
- (2) In section 5 of that Measure (fabric advisory committee), after subsection (1)

insert –

“(1A) But the power under subsection (1)(b) may not be exercised in relation to proposals of the kind described in section 2(2A).”

- (3) In section 6 of that Measure (body to which applications for approval are to be made), in subsection (1), after paragraph (a) and the following “or”, insert – 5
 “(aa) the proposal would involve the erection of a building on a disused burial ground, or”.
- (4) In section 9 of that Measure (applications to Cathedrals Fabric Commission), in each of subsections (1) and (7)(e), after “a proposal of a kind described in section 2(1)(a)” insert “or (2A)”. 10
- (5) After subsection (3) of that section insert –
- “(3A) In the case of a proposal of the kind described in section 2(2A), the Commission may, in spite of section 3 of the Disused Burial Grounds Act 1884 (which prohibits building on disused burial grounds except for the purpose of enlarging a place of worship), give its approval if either of the following conditions is met. 15
- (3B) The first condition is that no interments have taken place in the land on which the building is to stand during the period of 50 years preceding the date of the application for approval of the proposal.
- (3C) The second condition is that – 20
- (a) no personal representative or relative of a person whose remains have been interred in the land during that period has objected to the proposal, or
- (b) any such objection has been withdrawn.”
- (6) In rules 7(4)(c) and 19(3)(e) of, and in Forms 8, 9, 20 and 21 in Schedule 2 to, the Care of Cathedrals Rules 2006 (S.I. 2006/1941) (requirements to notify local planning authority of application), after “section 2(1)(a)” insert “or (2A)”. 25
- (7) The Schedule (which updates certain cross-references in the Care of Cathedrals Rules 2006) has effect.
- (8) The amendments made by subsection (6) and the Schedule do not affect the power to make further rules amending or revoking the provision made by those amendments. 30

6 Inspection of churches etc: appointment of inspector

- (1) In section 45 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (“the 2018 Measure”) (scheme for inspections), in subsection (2) – 35
- (a) in paragraph (c), for “one or more qualified persons approved by the advisory committee” substitute “persons”, and
- (b) omit paragraphs (d) and (e).
- (2) After subsection (2) of that section insert –
- “(2A) In relation to each church in the diocese, the provision specified in subsection (2)(c) must provide – 40
- (a) for the PCC of the parish in which the church is situated to appoint a person to inspect the church and to make a report on the inspection,

- (b) for the PCC not to make the appointment unless it –
- (i) has consulted the advisory committee, and
 - (ii) is satisfied that the person to be appointed has the necessary qualifications and experience, and
- (c) for a copy of the report on the inspection to be sent to – 5
- (i) the archdeacon of the archdeaconry in which the church is situated,
 - (ii) the PCC,
 - (iii) the incumbent of the benefice to which the parish in which the church is situated belongs, and 10
 - (iv) the secretary of the advisory committee.
- (2B) In relation to each relevant building in the diocese, the provision specified in subsection (2)(c) must provide –
- (a) for the manager of the building to appoint a person to inspect the building and to make a report on the inspection, 15
 - (b) for the manager of the building not to make the appointment unless the manager –
 - (i) has consulted the advisory committee, and
 - (ii) is satisfied that the person to be appointed has the necessary qualifications and experience, and 20 - (c) for a copy of the report on the inspection to be sent to –
 - (i) the archdeacon of the archdeaconry in which the building is situated,
 - (ii) the secretary of the advisory committee, and
 - (iii) the Church Buildings Council.” 25
- (3) In subsection (3) of that section (power to establish further scheme), in paragraph (b), for “subsection (2)(a) to (e)” substitute “subsection (2)(a) to (c)”.
- (4) After subsection (4) of that section insert –
- “(4A) In exercising a function under the scheme referred to in this section, a PCC, the manager of a relevant building or an advisory committee must have regard to any guidance issued by the Church Buildings Council.” 30
- (5) After subsection (5) of that section insert –
- “(5A) A reference to the manager of a relevant building is –
- (a) if the building is held on charitable trusts, a reference to the persons who have the general control and management of the administration of the charity; 35
 - (b) in any other case, a reference to the person who has the general control and management of the building.”
- (6) Omit subsection (6) of that section (which defines “qualified person”). 40
- (7) In section 47 of the 2018 Measure (archdeacon’s power to require inspection of church), in subsection (1), omit “by a qualified person”.
- (8) Omit subsection (7) of that section (which defines “qualified person”).
- (9) In section 48 of the 2018 Measure (power to require inspection of other place of worship), in each of subsections (1) and (2), omit “by a qualified person”. 45

- (10) In subsection (4) of that section, for “and “qualified person” each have” substitute “has”.

Parochial registers and records

7 Parochial registers

- (1) In section 25(1) of the Parochial Registers and Records Measure 1978 (interpretation), for the definition of “register books” and the definition of “register books in parochial custody” substitute – 5
- ““register books” means the register books mentioned in section 6(1); and where a register book of services is, by virtue of Canon F 12, kept in electronic form or a form approved by the General Synod, a reference to the register books is to be read as including a reference to that register book in that form; 10
- “register books in parochial custody” means the register books in the custody either of an incumbent or priest in charge or of churchwardens;”. 15
- (2) In section 11 of that Measure (care etc. of register books and records in parochial custody), in subsection (7), for “subsection (8)” substitute “subsections (7A) and (8)”.
- (3) In that section, after subsection (7) insert –
- “(7A) Subsection (7) does not apply in the case of a register book of services which, by virtue of Canon F 12, is kept in electronic form or any form approved by the General Synod.” 20

8 Parochial records

- In section 25(1) of the Parochial Registers and Records Measure 1978 (interpretation), for the definition of “records” and the definition of “records in parochial custody” substitute – 25
- ““records” means materials in written or other form setting out facts or events or otherwise recording information; but a reference to a record does not include a reference to –
- (a) a register book, 30
- (b) anything which is or has been fixed to the fabric of a parish church or other place of public worship in a parish, or
- (c) a photograph or picture which is or has been displayed in a parish church or other place of public worship in a parish; 35
- “records in parochial custody” means records –
- (a) in the custody either of an incumbent or priest in charge or of churchwardens, or
- (b) in the joint custody of any of those mentioned in paragraph (a).” 40

*Statutory bodies: procedure***9 Delegation to officers**

- (1) In section 7 of the Church Commissioners Measure 1947 (procedure), after subsection (2) insert –
- “(3) The Standing Orders regulating the procedure of the Commissioners may provide for authorising an officer of theirs to act on their behalf in relation to such matters as they think fit. 5
- (4) For provision as to delegation to officers by the Board, the Assets Committee or other committees, see section 6(4).”
- (2) In section 3 of the Care of Cathedrals Measure 2011 (the Cathedrals Fabric Commission), after subsection (3) insert – 10
- “(3A) The Commission may delegate to an officer such functions as it thinks fit.”

10 Diocesan Advisory Committee: limit on successive terms of office

- (1) In Schedule 2 to the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (diocesan advisory committee: constitution), in paragraph 3 (membership: term of office), at the end insert – 15
- “(4) A person who has served as the chair or as a member under paragraph 2(3)(a) or (b) for two successive terms of office, or such greater number as has been authorised under sub-paragraph (5) below, may not be reappointed or co-opted until the next occasion after the end of that period of office on which new appointments are to be made under paragraph 2(6). 20
- (5) In the case of a person who is serving the second of two successive terms of office as the chair or as a member under paragraph 2(3)(a) or (b), the Church Buildings Council may authorise the person, on the expiry of the second term, to continue to hold office for one or more further successive terms. 25
- (6) Sub-paragraphs (4) and (5) do not apply in a case where the first of the successive terms of office was being held by virtue of an appointment to fill a casual vacancy.” 30
- (2) Subsection (1) does not apply to a term of office which began before the commencement of this section.

*Updating, etc.***11 The Constitution of General Synod: replacement of outdated terms** 35

- (1) The Constitution of the General Synod, as set out in Schedule 2 to the Synodical Government Measure 1969, is amended as follows.
- (2) In each of Articles 3(1C), 7(4), 7(6) and 8(2), for “the Prolocutor and Pro-Prolocutor” substitute “the Chair and Vice-Chair”.
- (3) In each of Articles 4(1), 5(1) and 11(3), for “the chairman” substitute “the chair”. 40

- (4) In Article 4(1), for “the Chairman” substitute “the Chair”.
- (5) In Article 7(4), for “the Prolocutor and the Pro-Prolocutor” substitute “the Chair and the Vice-Chair”.
- (6) In Article 9(2) –
 - (a) for “a Chairman and Vice-Chairman” substitute “a Chair and Vice-Chair”, and
 - (b) omit “by this Constitution and the Standing Orders and”.

12 Mission and Pastoral Measure 2011: correction of cross-reference

In section 109 of the Mission and Pastoral Measure 2011 (churches etc. affected by private and local Acts), in subsection (1), for “subsection (4)” substitute “subsection (3)”. 10

Final provision

13 Short title, commencement and extent

- (1) This Measure may be cited as the Church of England (Miscellaneous Provisions) Measure 2019. 15
- (2) This section and sections 11 and 12 (updating and minor correction) come into force on the day on which this Measure is passed.
- (3) The other provisions of this Measure come into force on such day as the Archbishops of Canterbury and York may by order jointly appoint; and different days may be appointed for different purposes. 20
- (4) The Archbishops of Canterbury and York may by order jointly make transitional, transitory or saving provision in connection with the commencement of a provision of this Measure.
- (5) The power to make an order under subsection (3) or (4) is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies as if the order had been made by a Minister of the Crown and as if this Measure were an Act of Parliament. 25
- (6) This Measure extends to –
 - (a) the whole of the province of Canterbury, except the Channel Islands (subject to subsection (7)), and
 - (b) the whole of the province of York, except the Isle of Man (subject to subsection (8)).
- (7) This Measure may be applied to the Channel Islands, or either of them, in accordance with the Channel Islands (Church Legislation) Measures 1931 and 1957; and a reference in this section to the Channel Islands or either of them has the same meaning as a reference in those Measures to the Islands or either of them has. 35
- (8) Sections 9(1) and 11 extend to the Isle of Man; and if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, the other provisions of this Measure extend to the Isle of Man subject to such exceptions, adaptations or modifications as are specified in the Act or instrument. 40

SCHEDULE

Section 5

AMENDMENTS TO THE CARE OF CATHEDRALS RULES 2006

1 The Care of Cathedrals Rules 2006 (S.I. 2006/1941) are amended as follows.

2 In rule 2 (interpretation) –

- (a) in the definition of “the Commission”, omit “constituted by section 3”, 5
- (b) in the definition of “Commission of Review”, for “section 10” substitute “section 11”,
- (c) in the definition of “Dean of the Arches and Auditor”, for “section 10(3)(a)” substitute “section 11(3)(a)”, 10
- (d) for the definition of “the Measure” substitute –
 ““the Measure” means the Care of Cathedrals Measure 2011;”, and
- (e) in the definition of “precinct”, for “section 13” substitute “section 25”.

3 In paragraph 1(1) of Schedule 1 (interpretation) – 15

- (a) in the definition of “designated person”, for “section 6A(3)”, substitute “section 7(3)”, and
- (b) in the definition of “specified museum”, for “section 6A(4)(b)” substitute “section 7(4)(b)”.

4 In each of the provisions specified in the first column of the table below, for the words specified in the second column (which refer to a provision of the Care of Cathedrals Measure 1990) substitute the words specified in the third column (which refer to a provision of the Care of Cathedrals Measure 2011) – 20

<i>Provision of the Rules</i>	<i>Provision of the 1990 Measure</i>	<i>Provision of the 2011 Measure</i>	
rule 4(1)	section 6(2C)	section 6(8)	
rule 4(7)	section 6(2C)	section 6(8)	
rule 5(1)	section 7(1)	section 8(1)	
rule 5(4)	section 6(3)	section 6(10)	30
rule 5(4)	section 8	section 9	
rule 6(1)	section 9(2)	section 10(2)	
rule 7(1)	section 8(1)	section 9(1)	
rule 8(1)	section 9(1)	section 10(1)	
rule 11(1)	section 15	section 29	35

<i>Provision of the Rules</i>	<i>Provision of the 1990 Measure</i>	<i>Provision of the 2011 Measure</i>	
rule 14(1)	section 6A(1)	section 7(1)	
rule 14(2)(a)	section 8(2A)	section 9(4)	
rule 14(2)(b)	section 8(2B)	section 9(5)	5
rule 17(1)	section 9(2)	section 10(2)	
rule 18(1)(b)	section 9(2)	section 10(2)	
rule 18(1)(c)	section 9(1)	section 10(1)	
rule 18(1)	section 10(2)	section 11(2)	
rule 20(1)	section 9(1)	section 10(1)	10
rule 24(3)	section 10(3)(a)	section 11(3)(a)	
rule 27(3)	section 10B(2)	section 13(2)	
rule 28(1)	section 13(1)	section 24(1)	
rule 28(8)	section 13(1)	section 24(1)	
rule 29	section 14B	section 27	15
Schedule 1, paragraph 5(1)	section 13(2)	section 24(4)	
Schedule 1, paragraph 8(1)	section 6A(4)(b)	section 7(4)(b)	
Schedule 1, paragraph 8(3)	section 6A(4)(b)	section 7(4)(b)	20

5 In each Form in Schedule 2, for “Care of Cathedrals Measure 1990 (as amended)”, in each place it appears, substitute “Care of Cathedrals Measure 2011”.

6 In each Form in Schedule 2 specified in the first column of the table below, for the words specified in the second column (which refer to a provision of the Care of Cathedrals Measure 1990) substitute the words specified in the third column (which refer to a provision of the Care of Cathedrals Measure 2011) – 25

<i>Form in Schedule 2 to the Rules</i>	<i>Provision of the 1990 Measure</i>	<i>Provision of the 2011 Measure</i>	
Form 2	section 6(2C)	section 6(8)	
Forms 3, 4 and 5	Section 7	Section 8	
Form 6	Section 9(2)	Section 10(2)	30

<i>Form in Schedule 2 to the Rules</i>	<i>Provision of the 1990 Measure</i>	<i>Provision of the 2011 Measure</i>	
Form 7	Section 9(4)	Section 10(4)	
Forms 8, 9 and 10	Section 8	Section 9	
Form 11	Section 9(1)	Section 10(1)	5
Form 12	Section 9(3)	Section 10(3)	
Form 13	Sections 9(1) and 10C	Sections 10(1) and 14	
Form 14	Section 9(3)	Section 10(3)	
Form 15	Section 15	Section 29	
Forms 16, 17 and 18	Sections 6/6A(4)	Sections 6/7(4)	10
Form 19	Section 10(1)(a)	Section 11(1)(a)	
Form 20	Section 9(2)	Section 10(2)	
Form 21	Section 10(1)(a)	Section 11(1)(a)	
Form 22	Section 10(1)(b)	Section 11(1)(b)	
Form 23	Section 10C	Section 14	15
Form 24	Sections 10C, 10(1)(a) and (b) and 10(2)	Sections 14, 11(1)(a) and (b) and 11(2)	
Forms 25 and 26	Section 10B	Section 13	