

Draft Ecclesiastical Offices (Terms of Service) Measure

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A DRAFT OF A MEASURE

To make new provision for the terms of service of the holders of ecclesiastical offices; and for purposes connected therewith.

1 Common Tenure

(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,

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who—

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(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,

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(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.

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(2) Any person to whom this Measure applies shall hold his or her office in accordance with terms of service specified in Regulations.

- (3) The terms of service under which persons to whom this Measure applies hold office shall be known as Common Tenure.
- (4) **As soon as practicable after the coming into force of this section—**
- (a) **each archbishop shall notify, in writing, every diocesan bishop holding office in his province on that date, and** 5
- (b) **each diocesan bishop shall notify, in writing, each suffragan bishop and every person referred to in subsection (1)(d) to (f) above (other than a person referred to in sub-paragraph (ii) of that subsection) holding office in his diocese on that date,**
- requesting him or her to indicate whether or not that person agrees to the application of this Measure to him or her and, if so, to make a declaration in writing to that effect.** 10
- (5) As soon as the archbishop or, as the case may be, the bishop has received a declaration in accordance with subsection (4) above this Measure shall, with immediate effect, apply to the person who made the declaration and that person shall be informed, in writing, accordingly. 15

2 Regulations

- (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"). 20
- (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; 25
- (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; 30
- (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. 35
- (3) Regulations may apply, amend or adapt any enactment or instrument.
- (4) If Regulations make provision, in accordance with subsection (2)(e) above, for the use of employment tribunals, the tribunals shall have jurisdiction in respect of proceedings for which the Regulations make provision and section 2 of the Employment Tribunals Act 1996 (1996 c. 17) shall have effect as if the jurisdiction conferred thereby included jurisdiction conferred by or under a Measure. 40
- (5) A draft of any Regulations proposed to be made shall be laid before the General Synod and, if they are approved by the General Synod, whether with or 45

- without amendment, the draft Regulations as so approved shall be referred to the Archbishops' Council.
- (6) Where draft Regulations are referred to the Archbishops' Council under subsection (5) above then—
- (a) if they have been approved by the General Synod without any amendment, the Archbishops' Council shall, by applying its seal, make the Regulations; 5
 - (b) if they have been approved by the General Synod with amendment, the Archbishops' Council may either—
 - (i) by applying its seal make the Regulations as so amended, or
 - (ii) withdraw the draft Regulations for further consideration in view of any amendment by the General Synod; 10
 and the Regulations shall not come into force until they have been sealed by the Archbishops' Council.
- (7) Where the Business Committee of the General Synod determines that draft Regulations do not need to be debated by the General Synod, then, unless— 15
- (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he or she wishes the draft Regulations to be debated, or
 - (b) notice is so given by any such member that he or she wishes to move an amendment to the draft Regulations, 20
- the draft Regulations shall, for the purposes of subsections (5) and (6) above, be deemed to have been approved by the General Synod without amendment.
- (8) The Statutory Instruments Act 1946 (c. 36) shall apply to any Regulations sealed by the Archbishops' Council under subsection (6) above as if they were a statutory instrument and were made when sealed by the Archbishops' Council, and as if this Measure were an Act providing that any such Regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament. 25
- 3 Duration of appointments** 30
- (1) Subject to subsection (2) below, an office holder other than an archbishop or a bishop may resign his or her office by giving written notice not less than three months before the resignation is to take place to the bishop of the diocese in which the post is held. 35
- (2) Any notice required to be given under subsection (1) above may be waived by agreement between the office holder and the diocesan bishop.
- (3) The term of office of a person who holds office under Common Tenure shall be terminated only— 40
- (a) on the death of the office holder;
 - (b) on attaining the retirement age specified in relation to that office in section 1 of the Ecclesiastical Offices (Age Limit) Measure 1975 (1975 No. 2) or on the expiration of any period for which the office holder is permitted to continue in office after the retirement age under section 2 or 3 of that Measure;
 - (c) where the office ceases to exist in consequence of a pastoral scheme or order made under the Pastoral Measure 1983 (1983 No. 1) or reorganisation scheme made under Part II of the Dioceses, Pastoral and Mission Measure 200...; 45

- (d) where the office holder is removed from office following a finding of guilt for an offence under Part VI of the Ecclesiastical Jurisdiction Measure 1963 (1963 No. 1) or following a finding of misconduct under the Clergy Discipline Measure 2003 (2003 No. 3);
- (e) where the term is fixed or is otherwise limited, on the expiry of the term or the occurrence of the event in question, as the case may be; or 5
- (f) under subsections (4), (5) or (6) below or subsection (1) above.
- (4) The bishop of the diocese in which an office holder referred to in section 1(1)(g) or (h) of this Measure holds office may revoke the office holder's licence to exercise the office only in accordance with the capability procedures or in accordance with the Ecclesiastical Jurisdiction Measure 1963 (1963 No. 1) or the Clergy Discipline Measure 2003 (2003 No. 3). 10
- (5) Where a licence has been granted by a diocesan bishop to a person to exercise an office which is held by the office holder in connection with employment under a contract of employment the bishop may revoke the licence if that contract is terminated and the term of office of the office holder shall, thereupon, be terminated. 15
- (6) Where a panel has finally adjudicated on a matter relating to the performance of an office holder under the capability procedures and determined that the office holder should be removed from office, then, if any appeal against the determination has been unsuccessful or the time within which an appeal may be brought has expired without such an appeal being brought, the bishop or, in the case of an office holder who is a diocesan bishop, the archbishop of the province concerned, or, in the case of an archbishop, the archbishop of the other province, shall serve notice in writing on the office holder terminating his or her appointment with effect from the date of the expiry of three months after the date of the notice and stating in the notice the reason or principal reason for the termination. 20 25
- (7) The Church Dignitaries (Retirement) Measure 1949 (12, 13, & 14 Geo.6 No.1) shall have effect only in relation to holders of offices who are not subject to Common Tenure and section 6, and so much of section 7, of the Bishops (Retirement) Measure 1986 (1986 No. 1) ("the 1986 Measure") as relates thereto shall cease to have effect, but, where an appointment of an archbishop is terminated under subsection (6) above, the archbishop of the other province shall petition Her Majesty to declare the archbishopric vacant and Her Majesty may by Order in Council declare the archbishopric vacant as from a date specified in the Order. 30 35
- (8) Section 3 and, so far as it relates thereto, section 7 of the 1986 Measure shall not have effect in relation to a bishop who is subject to Common Tenure, but, where the appointment of a bishop is terminated under subsection (6) above, the archbishop of the province in which the bishopric is situated shall, by written notice, declare the bishopric vacant as from a date specified in the notice. 40
- (9) Section 8 of the 1986 Measure shall apply where an office is declared vacant under subsection (7) or (8) above as it applies where an office is declared vacant under that Measure. 45
- (10) In the Schedule to the Ecclesiastical Offices (Age Limit) Measure 1975 there shall be added at the end "Any other holder of a full-time stipendiary ecclesiastical office who is subject to Common Tenure". 50

4 Provision of housing for office holders

- (1) Every office holder who **holds** a full-time office for which he or she is entitled to receive a stipend shall be entitled to be provided by the relevant housing provider with accommodation which is reasonably suitable for the purpose and accommodation provided under this section is referred to in this Measure as a “house of residence”. 5
- (2) The right conferred by subsection (1) above is subject to any provision removing or modifying that right which may be specified, with the agreement of the office holder, in the particulars of office served on him or her in accordance with Regulations. 10
- (3) **Where the particulars of office served on an office holder who holds a part-time post specify the provision of accommodation for the office holder the office holder shall be treated, for the purposes of this section, as if he or she had an entitlement under subsection (1) to be provided with accommodation in accordance with those particulars of office.**
- (4) It shall be a condition of the provision of a house of residence to an office holder that the office holder occupies it for the better performance of the duties of the office and the terms on which the house of residence is occupied shall not create a relationship of landlord and tenant between the relevant housing provider and the office holder. 15
- (5) The right conferred by subsections (1) **and** (3) above shall cease on such date as may be specified in or under Regulations. 20
- (6) Subject to the preceding provisions of this section, the terms on which the office holder exercises the right conferred by subsections (1) **and** (3) shall be specified in Regulations. 25
- (7) In this Measure “relevant housing provider” means—
- (a) in the case of an archbishop or a diocesan bishop, the Commissioners;
 - (b) in the case of a dean, residentiary canon or other person in holy orders holding a stipendiary office in a cathedral, the Chapter of the cathedral; and
 - (c) in the case of a suffragan bishop, archdeacon or other office holder, the Board. 30
- (8) A relevant housing provider may agree with another relevant housing provider (“the second provider”) that the second provider shall be responsible for providing accommodation in a particular case and, whilst any such agreement is in force, the second provider shall, in relation to any such accommodation, be deemed to be the relevant housing provider for the purposes of this Measure. 35

5 Parsonages Boards

- (1) **Subject to subsection (2) below, as soon as possible after the coming into force of this section and not later than twelve months after that date every diocesan synod shall make a scheme for the appointment of a Parsonages Board for its diocese which is separate from the Diocesan Board of Finance for the diocese.** 40

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- (2) **Subsection (1) above applies only where the Diocesan Board of Finance has been designated as the Parsonages Board under a scheme made under section 1(1)(b) of the 1972 Measure.**
- (3) Schedule 1 to this Measure shall have effect with respect to the constitution and functions of the Board.
- (4) **Where the Diocesan Board of Finance has been designated as the Parsonages Board under a scheme made under section 1(1)(b) of the 1972 Measure the scheme shall continue in force until a new scheme is made under subsection (1) above.** 5
- (5) **Any parsonage house or other house of residence vested in the Board shall be held only for the purposes of the functions of the Board under this Measure.** 10
- 6 Provision of housing by Board and other relevant housing providers**
- (1) It shall be the duty of the Board—
- (a) to designate a house of residence as the parsonage house for every benefice in the diocese; and 15
- (b) to oversee the provision of housing for all **office holders** holding office in the diocese for whom it is the relevant housing provider and to ensure, **whether directly or by means of an arrangement with another body or authority** that suitable housing is provided for each such **office holder who is entitled under section 4 above to be provided with accommodation.** 20
- (2) Subject to section 4(1) **and (3)** above, the Board and any other relevant housing provider may also provide such housing accommodation as it thinks fit for any office holder for whom it is the relevant housing provider.
- 7 Vesting of parsonage houses and houses of residence for team vicars** 25
- (1) Any parsonage house vested in an incumbent of a benefice in right of that benefice on the coming into force of this section shall, in accordance with subsection (2) below, without any conveyance or further assurance, and freed and discharged from all previously existing trusts in favour of the benefice or of the incumbent, vest in the Board for the diocese in which the benefice is situated on the vesting date. 30
- (2) The vesting date for the purposes of subsection (1) above shall be—
- (a) in the case of a benefice which is vacant on the date of the coming into force of this section, that date, or
- (b) in the case of a benefice which is not vacant on that date, the earlier of the following dates— 35
- (i) the date on which the benefice first becomes vacant after the coming into force of this section, or
- (ii) the date on which this Measure applies to the incumbent by virtue of section 1(1) or 1(5) above. 40
- (3) **Where a house situated on diocesan glebe land or held by a diocesan board of finance as part of its corporate property is—**
- (a) **designated as a house of residence for a vicar in a team ministry by a pastoral scheme under section 31 of the 1983 Measure or a pastoral order under section 37 that Measure, or**

- (b) occupied as a house of residence by a vicar in a team ministry under such a scheme or order,

the house shall, on the vesting date, vest in the Board for the diocese in which the house is situated, without any conveyance or further assurance, and freed and discharged from all previously existing trusts in favour of the diocesan stipends fund, in the case of a house situated on diocesan glebe land, or in favour of the diocesan board of finance, in the case of a house held by it as part of its corporate property.

- (4) The vesting date for the purposes of subsection (3) above shall be—
- (a) in the case of a house designated by a pastoral scheme or order or occupied by a vicar in a team ministry before the date of the coming into force of section 1 above, that date, and
- (b) in the case of a house so designated or occupied for the first time by a vicar in a team ministry after that date, the date of the coming into force of the relevant provision of the scheme or order.
- (5) Schedule 2 to this Measure contains further provisions as to the vesting of any parsonage house or other house of residence in the Board under subsection (1) or (3) above and as to rights or obligations enjoyed by the house or to which it is subject and other supplementary provisions.
- (6) In this section and Schedule 2 to this Measure—
- (a) “parsonage house” has the same meaning as in the 1972 Measure and includes any parsonage land within the meaning of section 45(1) of the Endowments and Glebe Measure 1976 (1976 No.4) not otherwise included in the expression “parsonage house”; and
- (b) “the vesting date” means the date specified in subsection (2) or (4) above, as the case may be.

8 Powers to acquire and dispose of houses of residence and carrying out of works

- (1) Any relevant housing provider may acquire (including by way of gift), exchange or dispose of any land, or any interest in or over land, or any building which it considers necessary or appropriate for the provision of a house of residence for an office holder for which it is the relevant housing provider or is no longer required, as the case may be.
- (2) Any relevant housing provider may carry out such works of improvement, repair, demolition, reduction, enlargement or other alteration of or to any such house of residence as appears to it to be appropriate.
- (3) Before carrying out any works in accordance with subsection (2) above the relevant housing provider shall consult the office holder, unless the transaction is a regulated transaction to which section 9 below applies.

9 Transactions by relevant housing providers relating to houses of residence

- (1) In this Measure a “regulated transaction” means—
- (a) any disposal of a house of residence or exchange of a house of residence for another house of residence;
- (b) any works or other activity carried out to improve, demolish, reduce, enlarge or otherwise alter a house of residence or any part thereof;

- (c) in the case of a parsonage house **or house of residence for a vicar in a team ministry** in a benefice or a house of residence for an archbishop or a diocesan bishop, any acquisition (including any acquisition by gift) of a house or land intended for the provision of a new house of residence or of land for the provision of access to or for the improvement of the amenities of a house of residence or the erection of a new house of residence on land already owned by the relevant authority; and 5
- (d) in the case of a parsonage house in a benefice, any change in the designation of a house for that purpose under section 6(1)(a) above.
- (2) Before carrying out a regulated transaction a relevant housing provider shall serve notice, in accordance with Regulations, on— 10
- (a) any office holder in occupation of a house of residence or, in the case of an acquisition of a house or land intended for the provision of a new house of residence, or any change in the designation of a house of residence, any office holder for whom the house of residence is to be provided and, in the case of a team ministry, on every person serving in the team ministry; 15
- (b) the bishop of the diocese in which the house of residence or other land is situated unless the bishop is the office holder referred to in paragraph (a) above;
- (c) in the case of a parsonage house, the registered patron (except where the registered patron is the bishop) and the parochial church council of each parish in the benefice or, where there is no parochial church council in existence, the churchwardens of the parish; and 20
- (d) in the case of a house of residence for a diocesan bishop, the bishop's council and standing committee. 25
- (3) Any person or body on whom notice is served of a regulated transaction under subsection (2) above shall have the right to object to the transaction in accordance with Regulations.
- (4) **Unless subsection (7) below applies**, before carrying out a regulated transaction to which subsection (5) below applies a relevant housing provider must— 30
- (a) if the relevant housing provider is not the Commissioners, obtain the consent of the Commissioners, or
- (b) if the relevant housing provider is the Commissioners, obtain the consent of the Archbishops' Council. 35
- (5) This subsection applies to any disposal, purchase, or exchange which—
- (a) is to or from a connected person or a trustee for or nominee of a connected person, or
- (b) is not made on terms which a qualified surveyor has recommended are the best that can reasonably be obtained for the relevant housing provider. 40
- (6) In this section—
- (a) "connected person" means— 45
- (i) any office holder in occupation of the house of residence or for whom the house of residence is to be provided,
- (ii) the relevant housing provider or any member, officer, agent or employee thereof;

- (iii) in the case of a parsonage house in a benefice, the parochial church council or any member, officer, agent or employee thereof or, as the case may be, the churchwardens of the parish; and
- (iv) a spouse, civil partner, child, parent, grandparent, brother or sister of any person mentioned in sub-paragraphs (i) to (iii) above; and
- (b) “qualified surveyor” means, in the case of a house of residence provided for a benefice, the diocesan surveyor or, in the case of any other house of residence, a surveyor qualified as mentioned in paragraph 3 of Schedule 1 below or, in the case of a surveyor appointed under a scheme made under the 1972 Measure before the coming into force of section 6 of the Church of England (Miscellaneous Provisions) Measure 2005 (2005 No. 3), a fit person appointed under the scheme.
- (7) Before exercising any power to acquire or dispose of a house of residence the Chapter of a cathedral shall obtain the consent of the Commissioners and, in the case of a house which is allocated for the use of the holder of a dignity the right of presentation to which is vested in Her Majesty, of Her Majesty.
- (8) The Commissioners may lend money to any other relevant housing provider on such terms as they think fit for the purposes of carrying out a regulated transaction.
- (9) Schedule 3 to this Measure shall have effect in relation to the application of any money received by the Board in connection with a sale or exchange of a house of residence owned by it and to other matters relating to regulated transactions.
- (10) Where a regulated transaction is proposed to be carried out in relation to a parsonage house in any benefice the patronage or any share of the patronage of which is vested in or exercisable by the Crown the notice required to be served on the registered patron under subsection (2)(c) above shall be served on the person whose consent would be required under section 81 of the 1983 Measure if the transaction had been carried out under that Measure.
- 10 Codes of Practice**
- (1) It shall be the duty of the Archbishops’ Council to formulate guidance for the purposes of this Measure and to promulgate such guidance in one or more Codes of Practice.
- (2) The Archbishops’ Council may amend or replace any Code of Practice by a further Code of Practice issued under this section.
- (3) A Code of Practice shall be laid before the General Synod and shall not come into force until approved by the General Synod, whether with or without amendment.
- (4) Where the Business Committee of the General Synod determines that a Code of Practice does not need to be debated by the General Synod then, unless—
- (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he or she wishes the Code to be debated, or
- (b) notice is so given by any such member that he or she wishes to move an amendment to the Code,
- the Code shall, for the purposes of subsection (3) above, be deemed to have been approved by the General Synod without amendment.

- (5) Any person or body carrying out functions under this Measure or Regulations shall have regard to any Code of Practice issued under this section.

11 Supplementary provisions

- (1) Nothing in this Measure or in Regulations shall have effect so as to enable procedures to be applied in relation to any person to whom this Measure applies in respect of any misconduct within the meaning of section 38 of the Ecclesiastical Jurisdiction Measure 1963 or section 8 of the Clergy Discipline Measure 2003 otherwise than by way of proceedings under the said Measure of 1963 or the said Measure of 2003, as the case may be. 5
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- (2) Any ecclesiastical office which is a freehold office and vacant on the coming into force of this section and any such office held by any person to whom this Measure applies (whether or not the holder of the office holds any other office) shall cease to be a freehold office, in the case of a vacant office, on the coming into force of this section and, in any other case, on the date of the application of this Measure to the holder of the office.
- (3) Where immediately before the coming into force of this section, an office is an office the holder of which is a corporation sole, nothing in this Measure shall affect the status as a corporation sole of the holder of any such office, whether appointed before or after that date. 15
- (4) This Measure shall not apply to a holder of an office in a Royal Peculiar or to the dean and residentiary canons of the Cathedral Church of Christ in Oxford. 20
- (5) Nothing in this Measure or in Regulations shall prejudice any rights or obligations conferred or imposed on office holders or any other person or authority in any Measure, Canon of the Church of England or otherwise, except so far as this Measure or Regulations otherwise provides or provide. 25
- (6) Nothing in this Measure shall be taken as creating a relationship of employer and employee between an office holder and any other person or body.
- (7) Sections 8 and 9 above shall not apply to the archiepiscopal residence known as Lambeth Palace. 30
- (8) The powers conferred upon colleges and halls within the Universities of Oxford and Cambridge and other corporate bodies by section 5 of the Parsonages Act 1838 (1 & 2 Vict. c.23) shall extend and be applicable so as to authorise loans in aid of any regulated transaction.
- (9) Section 15 of the Clergy Residences Repair Act 1776 (17 Geo. 3 c.53) shall apply to assurances and other instruments made under and for the purposes of this Measure in relation to the parsonage houses in the same manner as it applies to instruments made under and for the purposes of the Parsonages Measure 1938 (1 & 2 Geo. 6 No. 3). 35
- (10) This Measure shall have effect notwithstanding any provision in the constitution or statutes of a cathedral. 40

12 Interpretation

- (1) In this Measure –
“the 1972 Measure” means the Repair of Benefice Buildings Measure 1972 (1972 No.2); 45

“the 1983 Measure” means the Pastoral Measure 1983;

“the Board” means the **Parsonages Board appointed under a scheme made under section 1(1) of the 1972 Measure or section 5 above;**

“capability procedures” means any procedures for which Regulations make provision by virtue of section 2(2)(d) above; 5

“the Commissioners” means the Church Commissioners;

“house of residence” has the meaning assigned to it by section 4(1) above and includes any land or buildings occupied together with a house of residence;

“office holder” has the meaning assigned to it by section 2(1) above;

“Regulations” means Regulations made under section 2 above; and 10

“relevant housing provider” has the meaning assigned to it by section 4(7) above.

- (2) Any reference in any Measure or other enactment, however expressed, to property belonging to a benefice or vested in the incumbent of a benefice shall, where the property has vested in the Board under section 7 above, be construed as a reference to property vested in the Board. 15

13 Amendment of Enactments

- (1) The Archbishops’ Council may, by Order, make provision—
 (a) for such amendments or repeals of any provision of a Measure or other enactment or instrument, or
 (b) for transitional matters, 20
 as appear to the Council to be necessary or expedient in consequence of any provision of this Measure or of Regulations.
- (2) Section 2(5) to (8) above shall apply in relation to any Order made under this section as if any reference therein to draft Regulations or a draft of Regulations or to Regulations were a reference to a draft Order or a draft of an Order or to an Order, as the case may be. 25
- (3) **No draft Order under section 2(5) above, as applied by subsection (2) above, shall be laid before the General Synod after the expiry of the period of five years beginning with the day on which this section comes into force.**
- (4) The enactments set out in Schedule 4 to this Measure shall have effect subject to the amendments specified in that Schedule. 30
- (5) Sections 32 and 36 of the Pluralities Act 1838 (1 & 2 Vict. c. 106), the Parsonages Measure 1938, the 1972 Measure **and section 32 of the Endowments and Glebe Measure 1976 (1976 No.4)** shall have effect only in relation to benefices of which the incumbent is not subject to Common Tenure.
- (6) Sections 13(1)(d), (1)(e), so far as it relates to the acquisition of land required for a house of residence, 17(1), so far as it relates to subsection (1)(e) in its application to a house of residence and 16(2) of the New Parishes Measure 1943 (6 & 7 Geo 6 No.1) shall not have effect in relation to a house of residence for an incumbent or other holder of an office who is subject to Common Tenure. 35
- (7) Section 3 of the Episcopal Endowments and Stipends Measure 1943 (6 & 7 Geo. 6 No. 2) shall not have effect in relation to a house of residence provided for a 40

diocesan bishop who is subject to Common Tenure but section 4 of that Measure shall apply to the exercise of powers in relation to a house of residence provided under this Measure as it applies in relation to the exercise of powers under that Measure.

- (8) The Incumbents (Vacation of Benefices) Measure 1977 (1977 No.1) (in this subsection and subsection (7) below referred to as “the 1977 Measure”) shall have effect only in relation to benefices of which the incumbent is not subject to Common Tenure, but if—
- (a) the incumbent of a benefice makes a declaration under section 1(4) above agreeing to the application of this Measure to him or her, and
 - (b) at the time when the declaration is received by the bishop of the diocese a request for an enquiry has been under section 1A or the bishop has instructed the secretary of the diocesan synod to institute an enquiry under section 6 of the 1977 Measure and proceedings under the Measure in respect of the enquiry have not been concluded,
- section 1(5) above shall not have effect and this Measure shall not apply to the incumbent until all such proceedings have been concluded and until (if the incumbent remains in office) the bishop has notified the incumbent in writing that this Measure applies to the incumbent from the date specified in the notice.
- (9) Where, on the coming into force of section 1 above, a vicar in a team ministry is the subject of a request for an enquiry or an enquiry under the provisions of the 1977 Measure referred to in subsection (7)(b) above in relation to which proceedings under that Measure have not been concluded, this Measure shall not apply to the vicar until all such proceedings have been concluded and the bishop has notified him or her in writing that this Measure applies to him or her from the date specified in the notice.
- (10) Section 15(1) of the Cathedrals Measure 1999 (1999 No.1) shall not have effect in relation to the disposal of a house of residence occupied by or allocated for the use of a holder of an office who is subject to Common Tenure.

14 Repeals

- (1) The enactments set out in Schedule 5 to this Measure are hereby repealed to the extent specified in the second column of that Schedule.
- (2) The repeal of section 1 of the 1972 Measure shall not affect any appointment of a Parsonages Board under section 1(1)(a) of that Measure.

15 Citation, commencement and extent

- (1) This Measure may be cited as the Ecclesiastical Offices (Terms of Service) Measure 200-.
- (2) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint and different days may be appointed for different provisions.
- (3) This Measure shall extend to the whole of the provinces of Canterbury and York except the Channel Islands and Isle of Man, except that the provisions thereof may be extended to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957 or either of them, in accordance with those Measures, and, if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, shall extend to the Isle of Man

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

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SCHEDULES

SCHEDULE 1

Section 5(2)

CONSTITUTION AND FUNCTIONS OF PARSONAGES BOARDS

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| 1 | <p>Subject to section 5 above any scheme made under the 1972 Measure shall have effect as if made under this Measure and may be varied, revoked or replaced by a subsequent scheme of a diocesan synod made under this Measure.</p> | 5 |
| 2 | <p>Any scheme may contain such supplementary and incidental provisions as may be necessary or expedient for the purposes of the scheme and may provide for the scheme to come into operation on different dates, for different purposes or for different areas.</p> | 10 |
| 3 | <p>Every scheme shall provide for the appointment of fit persons to be surveyors for the purposes of this Measure (in this Measure referred to as “diocesan surveyors”) and for determining their remuneration and terms of service, but no surveyor shall be considered to be a fit person for the purposes of this paragraph unless that person is registered under the Architects Act 1997 or is a corporate member of the Chartered Institute of Building or the Royal Institution of Chartered Surveyors or a member of such other body as the Commissioners may determine and appearing to them to be suitably qualified.</p> | 15
20 |
| 4 | <p>The scheme shall provide for the appointment of a secretary of the Board, and for determining his or her remuneration and terms of service.</p> | |
| 5 | <p>A copy of any scheme shall be sent to the Commissioners and to the Archbishops’ Council and filed in the diocesan registry.</p> | |
| 6 | <p>All archdeacons of a diocese for which a Parsonages Board is appointed shall be ex officio members of the Board, and the other members shall be elected or appointed in such manner as the diocesan synod may, having regard to the need to ensure sufficient representation of members of both clergy and laity, determine.</p> | 25 |
| 7 | <p>(1) A Parsonages Board shall be a body corporate, with perpetual succession and a common seal, and the purposes of that Board shall be the furtherance of the religious and other charitable work of the Church of England by the exercise of the powers conferred on it by or under this Measure, and it shall, for those purposes, have power to enter into contracts, hold property, borrow money, execute works (whether by entering into contracts or by the employment of direct labour) and have such other ancillary powers as may be provided by scheme of the diocesan synod.</p> <p>(2) For the purposes of the Charities Act 1993 (1993 c.10) a Parsonages Board shall be treated as a distinct charity and shall not be regarded as administered on behalf of a diocesan board of finance.</p> | 30
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- 8 (1) Subject to the preceding provisions of this **Schedule and sub-paragraph (2) below**, the constitution and procedure of a Parsonages Board shall be prescribed by scheme, and provision may be made for the appointment of committees and the exercise of functions by them, and for the appointment of officers and other staff of a Parsonages Board and for determining their remuneration and terms of service. 5
- (2) **The scheme shall provide that the person exercising the functions of the Chair of the Board shall not also be the person exercising the functions of the Chair or the Vice Chair (if any) of the Diocesan Board of Finance.**
- (3) **Where the Board is constituted as a separate Parsonages Board before the coming into force of this Schedule the provision required to be made in the scheme by sub-paragraph (2) above shall be made as soon as possible after that date and, in any event, not later than six months after that date.** 10
- 9 A Parsonages Board shall present an annual report and annual accounts to the diocesan synod. 15
- 10 All expenditure of the Board, except expenditure defrayed out of a specific trust fund, shall be defrayed out of any fund or funds capable of being applied for the purposes in question.
- 11 The Commissioners may make grants out of their general fund to the Board for payment into any fund or funds capable of being applied for the purposes of the provision, improvement or repair of houses of residence. 20
- 12 Without prejudice to paragraph 7 above, the Board shall have power to accept gifts and bequests either for their general purposes or on specific trusts for purposes falling within their general purposes.
- 13 The Board shall in respect of any house of residence in the diocese have power to defray on behalf of the Diocesan Board of Finance for the diocese any periodical payment in respect of a loan made by the Commissioners to that Board in relation to the provision of a house of residence in that diocese. 25
- 14 The Board shall have power to defray on behalf of the Diocesan Board of Finance the cost of repairs and other outgoings for which it is, under Regulations, under a duty to bear in respect of any house of residence or other accommodation for which it is the relevant housing provider. 30
- 15 Where the purposes of a charity include the repair of parsonage houses, either generally or in a particular locality, the funds of the charity shall continue to be applicable to that purpose, notwithstanding the vesting of any such house in or the transfer of responsibility for such repair to the Board. 35
- 16 The diocesan synod may, by directions, provide for the submission to the synod by the Board of annual estimates of the expenditure of the Board for the ensuing year and proposals for meeting that expenditure, and the Board shall consult the Diocesan Board of Finance before submitting the estimates. 40
- 17 **In this Schedule “scheme” means a scheme made under section 1(1)(a) of the 1972 Measure and having effect as if made under this Measure or a scheme made or continuing in force under this Measure.**

SCHEDULE 2

Section 7(5)

**FURTHER PROVISIONS RELATING TO PARSONAGE HOUSES AND OTHER HOUSES OF
RESIDENCE**

Rights and obligations attaching to parsonage houses **and other houses of residence**

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| 1 | <p>(1) Any house of residence which vests in the Board under section 7 above shall so vest, without any conveyance or other assurance, subject to, and with the benefit of, any other previously existing leases, tenancies or rights of occupation, and any covenants, conditions, agreements, easements and rights to which that house of residence is subject and of which it has the benefit immediately before the vesting date and subject to any trust or charge to which the house of residence is subject immediately before that date other than any trust in favour of the benefice, the incumbent, the diocesan stipends fund or the Diocesan Board of Finance, as the case may be or vicar in a team ministry.</p> | 5

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| | <p>(2) If there is any dispute between the Board and an incumbent or sequestrators as to a house of residence or any right which vests in the Board by virtue of section 7 above or this paragraph, or as to any covenant, condition, agreement, easement or right or trust or charge to which the house if residence was subject or of which it had the benefit immediately before the vesting date, it shall be decided by the Commissioners, whose decision shall be final and bind both parties to the dispute and any future incumbent or vicar in a team ministry of the benefice.</p> | 15

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Providing information to Board

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| 2 | <p>(1) The Board may from time to time require the incumbent or vicar in a team ministry or the sequestrators of any benefice belonging to the diocese—</p> <p style="margin-left: 20px;">(a) to provide the Board with such information relating to any parsonage house which vests in the Board under section 7 above as the Board requires to enable it to discharge its functions under this or any other Measure; and</p> <p style="margin-left: 20px;">(b) to produce to the Board such documents in his, her or their possession, or under his, her or their control, concerning the house of residence as the Board may specify or describe;</p> <p>and any person to whom a requirement under this sub-paragraph is directed shall comply with the requirement.</p> <p>(2) The Board shall, as respects any parsonage house which vests in the Board under section 7 above and which is subject to a lease or tenancy, have the same right to require the lessee of that land to provide the Board with any information which it needs relating to that lease as the Board would have if it were the person to whom the rent payable under the lease is for the time being payable.</p> | 25

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SCHEDULE 3

Section 9(9)

MATTERS RELATING TO REGULATED TRANSACTIONS

Application of money received

- 1 (1) The Board shall apply any money arising from any sale or exchange of a house of residence for the purposes set out below in the following order of priority –
 - (a) in payment of the costs, charges and expenses of such a sale or exchange; 5
 - (b) in or towards repayment of any money expended with the previous consent of the Board for the purpose of rendering the property sold or exchanged more readily saleable or exchangeable; 10
 - (c) where the property sold or exchanged has been purchased, built or improved wholly or in part by means of a loan from or on the security of a mortgage or charge in favour of the Commissioners, in or towards repayment of any principal or interest owing on such loan, mortgage or charge; 15
 - (d) where the property sold or exchanged has been purchased wholly or in part by means of a loan under section 9(8) above, in or towards the repayment of that loan;
 - (e) to the extent that the income derived from any money arising from the sale or exchange of the property sold or exchanged pending the application of the money under paragraphs (a) to (d) above shall be insufficient for the purpose, with the prior consent of the bishop, in or towards payment to the office holder in question of the whole or part of the expenses reasonably incurred in respect of removal from one house of residence to another, the storage of the furniture and any rent paid for any temporary residence pending occupation of the new house of residence; 20
 - (f) in or towards repayment to the incumbent of such amounts as may have been paid to the Commissioners in reduction of any loan made by them for or towards the erection or purchase of a house of residence; 25
 - (g) in or towards repaying the Commissioners the whole or part of any grant made by them for or towards the erection or purchase of a house of residence; 30
 - (h) in or towards the exercise of any powers under section 8 above;
 - (i) in allocation of it to the capital account of the diocesan stipends fund of the diocese to which the benefice belongs or to the pastoral account of the diocese, or partly to one and partly to the other, as the Diocesan Board of Finance may determine. 35
- (2) The Board shall provide the Commissioners with such information as they may require concerning transactions under section 8 or 9 above or this Schedule and the Commissioners may give advice to the Board on any such matters and the Board shall have regard to any such advice. 40
- (3) In any case where any income is derived from any money arising from any sale or exchange by the Board under section 8 above pending the application 45

and disposition of the money under this paragraph the income shall be added to the capital.

- (4) The Board shall give written notice to the incumbent and the registered patron, if any, of the benefice affected and to the parochial church councils of all parishes within the benefice of any proposed application and disposition of money under sub-paragraph (1)(h) or (i) above stating that representations may be made within such reasonable time as shall be specified in the notice and shall forward to the Commissioners any representations made by the incumbent, registered patron or any such council with regard to such application and disposition within the period specified in the notice. 5
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Formalities

- 2 (1) Any consent or approval by a bishop in relation to a regulated transaction shall be signified by writing under his hand.
- (2) The sealing by the Board of any transfer of land under section 8 above shall be conclusive evidence that any requirements of this Measure with respect to the transfer has been complied with. 15
- (3) Where the consent of the Commissioners or the Archbishops' Council is required to any transaction affecting property under this Measure a statement in the document by the secretary or other duly authorised officer of the Commissioners or the Secretary General or other duly authorised officer of the Council that they or it have or has consented to the terms of that transaction shall be conclusive evidence that they or it have or has consented to those terms. 20
- (4) A statement in a document giving effect to any regulated transaction under this Measure that the consent of the Commissioners or the Archbishops' Council to the transaction is not required shall, if the document is sealed with the seal of the Board or other relevant housing provider or is signed on behalf of the Board or other relevant housing provider by a person duly authorised, be conclusive evidence of that fact. 25
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- (5) Where any transaction under this Measure affecting property does not contain a statement under sub-paragraph (3) or (4) above then in favour of a person who (whether under the transaction or otherwise) acquires an interest in the property for money or moneys worth the disposition effected by the transaction shall be valid whether or not any consent of the Commissioners or the Archbishops' Council which was required to the transaction has been given. 35
- (6) Every transfer of land (including buildings) purchased or acquired by way of exchange of a house of residence under this Measure shall be registered in the registry of the diocese concerned. 40
- (7) In any case where any land (including buildings) sold or exchanged under this Measure is subject to any mortgage or charge in favour of the Commissioners, the transfer thereof under this Measure shall be effectual to pass the same discharged from the mortgage or charge, and the mortgage or charge shall attach to the purchase money arising on the sale or to any money paid to the Board by way of equality of exchange and to the land or building acquired by way of exchange. 45

SCHEDULE 4

Section 13(4)

AMENDMENT OF ENACTMENTS

The Pluralities Act 1838

- 1 In section 59 of the Pluralities Act 1888 (1 & 2 Vict. c.106) after the words “belonging to any benefice” there shall be inserted the words “or vested in a Parsonages Board”. 5

The Endowments and Glebe Measure 1976

- 2 In section 38(2) of the Endowments and Glebe Measure 1976 (1976 No.4) after the words “belonging to the benefice” there shall be inserted the words “or vested in the Parsonages Board”. 10

Deaconesses and Lay Ministry Measure 1972

- 3 In section 1A(b) of the Deaconesses and Lay Ministry Measure 1972 (1972 No. 4) there shall be inserted at the beginning the words “in the case of any such person who is not subject to Common Tenure,”.

The Pastoral Measure 1983

- 4 The Pastoral Measure 1983 (1983 No.1) shall be amended as follows. 15

- 5 In section 3 as it has effect by virtue of section 25 of the Dioceses, Pastoral and Mission Measure 2007 (2007 No.1) –

(a) for the words “subsection (3)” there shall be substituted the words “subsections (3) and (3A)”; 20

(b) After subsection (3) there shall be inserted the following subsection –

“(3A) Where any recommendations, proposals, draft scheme or order relates to any person holding office under Common Tenure whose office would or might be abolished if they or it took effect and any such person is entitled to receive a stipend or other emoluments of office, including any provision of accommodation, that person shall be deemed to be an interested party for the purposes of this Part”; and 25

(c) in subsection (5), after the words “team ministry” there shall be inserted the words “or a person referred to in subsection (3A)”. 30

- 6 In section 20 –

(a) subsection (2) shall cease to have effect;
(b) in subsection (3) the words “and shall be held by each holder thereof for the specified term of years” shall be omitted; 35

(c) subsection (3A) shall cease to have effect;

(d) in subsection (3B) for the words from the beginning to the words “authorised as aforesaid” there shall be substituted the following words “No person shall be authorised under subsection (1)(b) by licence of the bishop to serve in a team ministry as member of the team”; 40

(e) subsection (6) shall cease to have effect; and

(f) subsection (15) shall cease to have effect.

- 7 (1) In section 22(1) the words after the word “vicars” in paragraph (a) and paragraphs (c) and (cc) shall be omitted
- (2) Section 22(3) shall cease to have effect.
- 8 In section 25(4) after the words “diocesan board of finance” there shall be inserted the words “or, in the case of a residence of an incumbent who is subject to Common Tenure, the Parsonages Board”. 5
- 9 In section 26(1) for the words “vicars in team ministries and archdeacons” there shall be substituted the words “archdeacons and the holders of any other ecclesiastical offices who are subject to “Common Tenure”.
- 10 **In section 31 – 10**
- (a) **in subsection (1)(a) after the words “belonging to a benefice” there shall be inserted the words “or vested in the Parsonages Board”;**
- (b) **for subsection (1)(c) there shall be substituted the following paragraph –**
- “(c) the transfer of a parsonage house, part of a parsonage house, a house situated on diocesan glebe land, any parsonage land or any diocesan glebe land – 15
- (i) in the case of a benefice the incumbent of which is not subject to Common Tenure, to the incumbent as his official residence, or a site thereof, and 20
- (ii) in the case of a benefice the incumbent of which is subject to Common Tenure or in the case of a vacant benefice to the Parsonages Board.”;
- (c) **in subsection (1)(d) after the words “Schedule 3” insert “or, in the case of a house of residence for a vicar in a team ministry, by the Parsonages Board”;** and 25
- (d) in subsection (2) after the words “subsequent exercise of any power” insert “to designate a house of residence as a parsonages house under section 6(1)(a) of the Ecclesiastical Offices (Terms of Service) Measure 200.. or”. 30
- 11 In section 37(1) paragraph (e)(iii) and the words “or (c)” in paragraph (e)(iv) shall be omitted.
- 12 In section 59(2A) for the words after “vest” to the end there shall be substituted the words “vest without any conveyance or further assurance – 35
- (a) where the land is situated in a benefice the incumbent of which is not subject to Common Tenure, in the incumbent of that benefice; or
- (b) where the land is situated in a benefice the incumbent of which is subject to Common Tenure or which is vacant, in the Parsonages Board”.
- 13 In section 87(1) – 40
- (a) in the definition of “parsonage house”, for the words from the word “vested” to the words “official residence” there shall be substituted the words “being the official residence of the incumbent”, and
- (b) after the definition of “diocesan board of finance” there shall be inserted the following definition – 45
- “Parsonages Board” has the same meaning as in the Ecclesiastical Offices (Terms of Service) Measure 20...;”.

- 14 In paragraph 7(1) of Schedule 3 –
(a) after the words immediately preceding Proviso (a), there shall be added the words “or, in the case of a parsonage house of a benefice the incumbent of which is subject to Common Tenure, in the Parsonages Board”; and 5
(b) in Proviso (b), for the word “provost” there shall be substituted the word “dean”.
- 15 Schedule 4 shall be amended as follows.
- 16 In paragraph 1, for the words “and the holder of an office of vicar in a team ministry” there shall be substituted the words “and the holder of any other ecclesiastical office who is subject to Common Tenure”. 10
- 17 Paragraphs 2 and 3 shall cease to have effect.
- 18 In paragraph 4, for the words “or a vicar in a team ministry” there shall be substituted the words “or the holder of any other ecclesiastical office who is subject to Common Tenure”. 15
- 19 In paragraph 5, for the words “or vicar”, in both places where they occur, there shall be substituted the words “or office holder”.
- 20 In paragraph 11(c), there shall be added at the end the words “or, following a complaint under the Clergy Discipline Measure 2003, has had imposed on him or her a penalty of removal from office, prohibition for life or for a limited period or revocation of his or her licence or has resigned”. 20
- 21 In paragraph 13(1)(a) the words after “paragraph 11” to “have ended,” shall be omitted.
- 22 In paragraph 15 –
(a) in sub-paragraph (b) for the word “four” there shall be substituted the word “three”, and 25
(b) in sub-paragraph (c), for the words “two persons” there shall be substituted the words “one person”.
- 23 In paragraph 16 –
(a) in sub-paragraph (1), for the words “The Commissioners” there shall be substituted the words “The Rule Committee established by section 25 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No.1)”, and 30
(b) sub-paragraph (2) shall cease to have effect.
- 24 In paragraph 18, the words “after consultation with the Commissioners” shall be omitted. 35
- The Care of Churches and Ecclesiastical Jurisdiction Measure 1991*
- 25 The Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No.1) shall be amended as follows.
- 26 In section 25 – 40
(a) in subsection (1) for the word “six” there shall be substituted the word “eight”, and
(b) in subsection (2) there shall be added, at the end, the following paragraph –

“(d) for the purpose of making rules relating to the procedure to be followed in connection with the determination of rights to compensation under Schedule 4 to the Pastoral Measure 1983 (1983 No. 1) and in other proceedings under that Schedule—

- (i) one person nominated by the Archbishops’ Council, and
(ii) one person nominated by the Church of England Pensions Board.”.

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- 27 In section 26(1) there shall be added, at the end, the following paragraph—
“(f) Schedule 4 to the Pastoral Measure 1983.”.

SCHEDULE 5

Section 14 (1)

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REPEALS

<i>Act or Measure</i>	<i>Extent of repeal</i>	
The Pluralities Act 1838, 1 & 2 Vict. c. 106	Section 95. Section 96. Section 97.	15
The Lecturers & Parish Clerks Act 1844, 7 & 8 Vict. c. 59	In section 2 the words from “such suspension or removal” to the end of the section.	
1972 No. 2, The Repair of Benefice Buildings Measure 1972	Section 1. Section 17. Section 19(1), (2), (3), (5) and (6). Section 24. Section 25.	20
1976 No. 3, The Church of England (Miscellaneous Provisions) Measure 1976	Section 2	25
1976 No. 4, The Endowments and Glebe Measure 1976	In section 24, the words “of vicar in a team ministry or”.	30
1983 No 1, The Pastoral Measure 1983	Section 20(2), (3A), (6) and (15). Section 22(1)(c) and (cc) and (3). In Schedule 4, paragraphs 2, 3 and 16(2).	35
1986 No.1, The Bishops (Retirement) Measure 1986	Section 6. In section 7, the words “or an archbishopric is declared vacant under section 6 of this Measure”, the words “or archbishop” and the words “or archbishopric”.	40

<i>Act or Measure</i>	<i>Extent of repeal</i>	
1988 No. 1, The Church of England Legal Aid and (Miscellaneous Provisions) Measure 1988	In section 7(1), the words following “readers” to the end of the subsection. Section 7(1A).	5
1995 No. 2, The Church of England (Miscellaneous Provisions) Measure 1995	Section 4.	10

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