
DRAFT STATUTORY INSTRUMENTS

2019 No.

ECCLESIASTICAL LAW, ENGLAND

The Legislative Reform (Patronage of Benefices) Order 2019

Made (sealed by the Archbishops' Council) ***

Laid before Parliament ***

Coming into force - - *1st January 2020*

The Archbishops' Council makes the following Order in exercise of the powers conferred by sections 1 and 9 of the Legislative Reform Measure 2018(a).

The Archbishops' Council considers that the conditions in section 2 of that Measure are (so far as relevant) satisfied.

The Archbishops' Council has consulted in accordance with section 4 of that Measure and has laid a draft Order and explanatory document before the General Synod in accordance with section 5 of that Measure.

In accordance with section 7 of that Measure, the draft Order has been approved by the General Synod.

Citation, commencement and interpretation

- 1.—(1) This Order may be cited as the Legislative Reform (Patronage of Benefices) Order 2019.
- (2) This Order comes into force on 1st January 2020.
- (3) In this Order, “the 1986 Measure” means the Patronage (Benefices) Measure 1986(b).

Notification of vacancy

- 2.—(1) Section 7 of the 1986 Measure (notification of vacancies) is amended as follows.
- (2) In subsection (1), omit “Subject to section 70 of the Pastoral Measure 1983,”.
- (3) For subsection (2) substitute—
 - “(2) Where a benefice becomes vacant by reason of resignation or cession, the bishop shall, no later than the day on which the vacancy occurs, give notice of that fact to the designated officer of the diocese.

(a) 2018 No. 5.
(b) 1986 No. 3.

(2A) Where the bishop is aware that the benefice is shortly to become vacant by reason of resignation or cession, the bishop may give notice of that fact to the designated officer of the diocese; and where the bishop does so before the vacancy occurs, the bishop is to be regarded as having given the notice required under subsection (2).”

(4) In subsection (3), for “required to be given to the designated officer under subsection (1) or (2)” substitute “given to the designated officer under subsection (1), (2) or (2A)”.

(5) In subsection (4)—

(a) for “or (2)” substitute “, (2) or (2A)”, and

(b) omit “; and any such notice shall include such information as may be prescribed.”

(6) After subsection (4) insert—

“(4A) A notice under subsection (4) shall specify—

(a) the date on which the benefice became, or is expected to become, vacant,

(b) a date referred to in the notice as “the start date”, being either the date on which the notice is sent or, if the bishop so directs, a date no later than three months after the date specified under paragraph (a), and

(c) such information about the procedure for filling the vacancy as may be prescribed or, if no such information is prescribed, such information as the designated officer considers will assist the registered patron and parochial church council in carrying out functions in respect of the vacancy.”

(7) After subsection (4A) (inserted by paragraph (6)) insert—

“(4B) In the case of a benefice in respect of which there is more than one registered patron, the designated officer shall also send the notice under subsection (4) to each person who would be entitled to present to the benefice on the next or any subsequent turn; and, when doing so, the officer must request each of those persons to provide an email address and such other contact details as may be specified in the request.”

(8) After subsection (4B) (inserted by paragraph (7)) insert—

“(4C) Subsections (1) to (2A) are subject to section 88 of the Mission and Pastoral Measure 2011 (which modifies this Measure in cases where presentation to a benefice is suspended or restricted).”

(9) In section 88 of the Mission and Pastoral Measure 2011 (modification of 1986 Measure), in paragraph (d)—

(a) after “section 7(4)” insert “and (4A)”, and

(b) for “or (2)” substitute “, (2) or (2A)”.

Meetings

3.—(1) In section 11 of the 1986 Measure^(a) (meetings of parochial church council), in subsection (1), for the words from the beginning to “of that council” substitute “As soon as practicable after the start date specified in the notice under section 7(4) and in any event before the end of the period of six months beginning with that date, one or more meetings of the parochial church council”.

(2) In section 12 of that Measure (joint meeting of parochial church council with bishop and patron), in subsection (5), for the words from “before the expiration” to “(1)(b) above)” substitute “as soon as practicable after the start date specified in the notice under section 7(4) and in any event before the end of the period of six months beginning with that date”.

(3) In section 13 of that Measure (selection of incumbent), in subsection (1)(a)(iii), for “six weeks” substitute “six months”.

(a) Section 11(1) has been repealed in part by the Bishops and Priests (Consecration and Ordination of Women) Measure 2014.

(4) In Schedule 2 to that Measure(a) (modifications of Part 2 for certain benefices), in paragraph 4, in the text of subsection (1) of section 11 as modified, for the words from the beginning to “meetings of those councils” substitute “As soon as practicable after the start date specified in the notice under section 7(4) and in any event before the end of the period of six months beginning with that date, one or more joint meetings of the parochial church councils concerned”.

Vacancy remaining after 18 months

4.—(1) Section 16 of the 1986 Measure(b) (presentation to benefices remaining vacant) is amended as follows.

(2) In subsection (1), for the words from “twelve months” to “section 7” substitute “18 months beginning with the start date specified in the notice under section 7(4)”.

(3) In subsection (2)—

(a) for “twelve months” substitute “18 months”,

(b) in paragraph (b), for “the Pastoral Measure 1983” substitute “section 85 of the Mission and Pastoral Measure 2011”, and

(c) in paragraph (c), for “section 24 or 69” substitute “section 38 or 87”.

(4) In subsection (5), for “twelve months” substitute “18 months”.

(5) In the title to that section, for “nine months” substitute “18 months”.

(6) In the cross-heading preceding that section, for “nine months” substitute “18 months”.

(7) In Schedule 2 to the 1986 Measure, omit paragraph 16 (which modifies a provision of section 16 of that Measure that has been repealed).

Patronage exercisable jointly

5. After section 20 of the 1986 Measure insert—

“Patronage exercisable jointly

Power to appoint another joint patron

20A.—(1) This section applies where the right to present to a benefice upon a vacancy is vested in different persons jointly.

(2) Any of the registered patrons whose concurrence would be required for the exercise of the joint right may appoint another of those persons to act on that patron’s behalf in respect of a vacancy in the benefice.

(3) A registered patron may make an appointment or be appointed under this section only if the patron—

(a) has made the declaration of membership, or

(b) being unable to do so, is acting through a representative.

(4) A registered patron appointed under this section may on behalf of the patron who made the appointment—

(a) concur in the exercise of the joint right, and

(b) act under section 12, 13, 15 or 17.

(5) The power of a registered patron to act under an appointment under this section does not affect the power of that patron to act in that patron’s own capacity as such.

(a) Paragraph 4 of Schedule 2 is amended by paragraph 27 of Schedule 3 to the Church of England (Miscellaneous Provisions) Measure 1992.

(b) Section 16 is amended by section 63(3) of the Dioceses, Pastoral and Mission Measure 2007 and section 12 of the Mission and Pastoral etc. (Amendment) Measure 2018.

(6) In a case within subsection (3)(b), it is the representative, on behalf of the registered patron, who in practice makes the appointment or is appointed; and the references in subsections (4) and (5) to a registered patron are to be read accordingly.

(7) An appointment under this section may be revoked; but the revocation of an appointment under this section does not affect the validity of anything done under the appointment.

(8) An appointment under this section, or the revocation of an appointment under this section, must be made in writing.”

Service by email

6. In section 37 of the 1986 Measure (notices and other documents), in subsection (2), for “or by post” substitute “by post or by sending it to an email address which the person has provided and not withdrawn”.

Updating references

7.—(1) In section 3 of the 1986 Measure (transfer of rights of patronage), in subsection (8), for “section 67 of the Pastoral Measure 1983” substitute “section 85 of the Mission and Pastoral Measure 2011”.

(2) In section 33 of that Measure (transfer of advowson held on trust), in the title, for “held on trust for sale” substitute “subject to trust of land”.

(3) In section 35 of that Measure (Crown benefices), in subsection (8), for “paragraphs (a) to (d) of section 81(2) of the Pastoral Measure 1983” substitute “paragraphs (a) to (c) of section 100(2) of the Mission and Pastoral Measure 2011”.

(4) In section 39 of that Measure (interpretation), in subsection (1), in the definition of each of “mission and pastoral committee”, “pastoral order” and “pastoral scheme”, for “the Pastoral Measure 1983” substitute “the Mission and Pastoral Measure 2011 (see section 106 of that Measure)”.

Application to the Isle of Man

8.—(1) The amendments made by Articles 2 to 4 and 6 have effect in the Isle of Man subject to the following exceptions, adaptations and modifications.

(2) In Article 2—

- (a) in paragraph (2), for “section 70 of the Pastoral Measure 1983” substitute “section 32 of the 2012 Measure”,
- (b) in each of paragraphs (3), (6) and (7), for “designated officer”, in each place it appears, substitute “registrar”,
- (c) omit paragraph (4),
- (d) in each of paragraphs (6) and (7), omit “registered”,
- (e) in paragraph (7), for “the officer” substitute “the registrar”,
- (f) in paragraph (8), for “section 88 of the Mission and Pastoral Measure 2011” substitute “section 32 of the Mission and Pastoral Measure (Isle of Man) 2012”,
- (g) after paragraph (8), insert—
“(8A) In subsection (5), for “or (2)”, in each place it appears, substitute “, (2) or (2A)”,
and
- (h) in paragraph (9), for the words from “section 88” to “paragraph (d)” substitute “section 32 of the Mission and Pastoral Measure (Isle of Man) 2012 (modification of 1986 Measure), in subsection (5)”.

(3) For Article 4 substitute—

“Vacancy remaining after 18 months

4. In section 16 of the 1986 Measure (presentation to benefices remaining vacant for 18 months), in subsection (1), for “the date on which a benefice becomes vacant” substitute “the start date specified in the notice under section 7(4).”

(4) The amendments made by Articles 5 and 7 have no effect in the Isle of Man.

Transitional provision

9. The amendments made by Articles 2 to 4 (including as adapted or modified by Article 8) do not apply in the case of a vacancy in a benefice—

- (a) which arose before 1st January 2020, or
- (b) in respect of which a notice under section 7 of the 1986 Measure was given before that date.

This Order was approved by the General Synod on [] July 2019

Jacqui Philips
Clerk to the Synod

THE COMMON SEAL of the Archbishops’ Council was hereunto affixed on [] July 2019.



Church House, London SW1P 3AZ.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Patronage (Benefices) Measure 1986 (“the 1986 Measure”).

Article 2 amends section 7 of the 1986 Measure. Paragraph (3) provides that, where a benefice becomes vacant, the bishop of the diocese must give notice to the designated officer no later than the day on which the benefice becomes vacant. If the bishop becomes aware that a vacancy is shortly to arise, the bishop may continue to give such notice as he or she considers reasonable to the designated officer.

Paragraphs (5)(b) and (6) provide that the notice given under section 7(4) by the designated officer to the registered patron and the parochial church council secretary must include certain specified information rather than just whatever information may have been prescribed by the Patronage (Procedure) Committee. In particular, the notice must provide a “start date” to begin the timetable for filling the vacancy in the benefice.

Paragraph (7) provides that, where there is more than one registered patron, the designated officer should also send the notice under section 7(4) to the patrons with subsequent turns and take the opportunity to request up to date contact details from them.

Article 3 amends sections 11 and 12 of the 1986 Measure to provide for the existing periods of four weeks for section 11 meetings and six weeks for a section 12 meeting to be replaced by a single maximum period of six months beginning with the “start date” specified in the notice under section 7(4).

Article 4 amends section 16 of the 1986 Measure to provide for there to be a period of 18 months from the “start date” specified in the notice under section 7(4) before lapse occurs (at which point, the right of presentation lapses from the patron to the bishop or archbishop).

Article 5 inserts a new section 20A in the 1986 Measure to provide that, where patronage is exercised jointly by two or more patrons, any of those patrons may nominate one of the others to act on his or her behalf for the purposes of filling the vacancy.

Article 6 provides that notices and other documents sent under the 1986 Measure may be sent by email (as well as by the usual methods of post and personal service).

Article 7 updates various references in the 1986 Measure, including references to the Pastoral Measure 1983 which has since been consolidated by the Mission and Pastoral Measure 2011.

Article 8 modifies the amendments made by this Order in its application to the Isle of Man.