

## GENERAL SYNOD

## CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) MEASURE

## Explanatory Notes

The draft Miscellaneous Provisions Measure makes legislative provision for a range of matters that do not merit separate, free-standing legislation.

**Background and summary**

1. The draft Measure is the latest in a series of Miscellaneous Provisions Measures dealing with matters that do not merit separate, free-standing legislation.
2. The Annex to these Explanatory Notes shows the text of enactments as proposed to be amended by the provisions of the draft Measure where the effect of an amendment is not readily apparent from the Measure itself.

**Procedural stages**

3. Standing Order 48(1) provides for Measures and Canons to be considered by the General Synod on the following successive stages:
  - First Consideration (see SOs 51 and 52)
  - Revision Committee (see SOs 54 to 57)
  - Revision (see SOs 53 and 58 to 60)
  - **Final Drafting (see SO 61)**
  - **Final Approval (see SO 64).**
4. The draft Measure was considered by the General Synod at the July 2022 group of sessions on the First Consideration Stage.
5. The Revision Committee Stage took place in November and December 2022.
6. There were 19 submissions to the Revision Committee from members of the Synod. The Revision Committee made several amendments to the draft Measure, including the insertion of clauses 3, 4, 9, 20 and 22 and Schedules 1 and 2.
7. The Revision Stage took place in Full Synod at the February 2023 group of sessions. The Measure then stood committed to the Steering Committee in respect of Final Drafting. The Steering Committee's report is GS 2272/2273Z.
8. The next stages are the **Final Drafting and Final Approval Stages** to be taken at the July 2023 group of sessions.

**Notes on clauses*****Clause 1 Remote meetings: indefinite application of special standing orders***

9. Clause 1 amends the General Synod (Remote Meetings) (Temporary Standing Orders) Measure 2020 ("the Remote Meetings Measure"). That Measure was passed in 2020

to enable the General Synod to hold remote meetings (including hybrid meetings) on a temporary basis.

10. *Subsection (1)* removes the prohibition in the Remote Meetings Measure on Article 7<sup>1</sup> or Article 8 business<sup>2</sup> being considered at a remote or hybrid meeting of the Synod.
11. *Subsection (2)* amends section 3 of the Remote Meetings Measure to enable the special standing orders for remote and hybrid meetings to continue in operation indefinitely if the Synod so decides.
12. *Subsection (3)* makes a consequential change to the short title of the Remote Meetings Measure so that it no longer includes the words “(Temporary Standing Orders)”.

### ***Clause 2 Legislative Reform Measure 2018: removal of sunset***

13. Clause 2 removes the sunset provision from the Legislative Reform Measure 2018 (“the 2018 Measure”).
14. The 2018 Measure introduced a power for the Archbishops’ Council, with the approval of the General Synod on a case-by-case basis, to make Legislative Reform Orders. Those Orders can amend Measures and other provisions of ecclesiastical law in primary legislation to remove or reduce burdens resulting from that legislation.
15. The 2018 Measure contains a sunset provision for the power to make Legislative Reform Orders to expire five years after the first such Order is laid before Synod. The sunset provision enables the Archbishops’ Council, with the approval of Synod, to make an order to extend the duration of that power beyond that five-year period, subject to the approval of both Houses of Parliament. Extension can be either indefinite or for a specified period. The first Legislative Reform Order was laid before the Synod in March 2019. So the power will, unless extended, expire in March 2024.
16. Instead of the Archbishops’ Council making an order to extend the power indefinitely, clause 2 would achieve the same result by removing the sunset provision.

### ***Clause 3 Safeguarding Code revision: exceptions to requirement for Synod approval***

17. Clause 3 removes, in two cases, the requirement for the General Synod to approve a revision of the Code of Practice made under the Safeguarding and Clergy Discipline Measure 2016.
18. The first case is a revision to the requirements imposed by the Code, if the House of Bishops considers that the revision is insubstantial. Such revisions might include, for

---

<sup>1</sup> Article 7 business is Synodical business that is concerned with making “provision touching doctrinal formulae or the services or ceremonies of the Church of England or the administration of the Sacraments or sacred rites thereof”. Article 7 business is subject to special procedures involving possible references to the Convocations and the House of Laity.

<sup>2</sup> Article 8 business is Synodical business that is concerned with making a “Measure or Canon providing for permanent changes in the Services of Baptism or Holy Communion or in the Ordinal, or a scheme for a constitutional union or a permanent and substantial change of relationship between the Church of England and another Christian body being a body a substantial number of whose members reside in Great Britain”. Article 8 business is subject to special procedures that involve references to diocesan synods and, in some cases, special majorities in the General Synod.

example, amendments to statutory references or to job titles. The second case is a revision to the guidance given on how to comply with the requirements imposed.

**Clause 4 Change of name of suffragan see: removal of requirement for Synod approval**

19. Clause 4 amends section 11 of the Dioceses, Pastoral and Mission Measure 2007 so as to remove the requirement for the General Synod to approve a change to the name of a suffragan see. The Synod's approval will continue to be required for a change to the name of a diocesan see.

**Clause 5 Terms of service**

20. Clause 5 amends the Ecclesiastical Offices (Terms of Service) Regulations 2009 ("the 2009 Regulations"), which set out the terms of service for clergy and laity who serve under common tenure.
21. *Subsection (1)* inserts a new paragraph in regulation 2 of the 2009 Regulations so that the terms of service for common tenure do not apply to a person who is licensed to exercise ministry as a member of a religious community. Unlike others who hold office on common tenure, members of religious communities are not given a stipend or provided with housing by "the relevant housing provider" (usually the DBF). Nor do other matters that are relevant to parochial clergy (such as rest days, annual leave, ministerial development review and capability procedures) apply to members of religious communities. It is therefore not appropriate for the 2009 Regulations to apply those matters to them.
22. The 2009 Regulations already contain provision to disapply the Regulations to clergy who exercise ministry under a contract of employment (for example, as a hospital chaplain). The amendment made by *subsection (1)* creates an equivalent exception for members of religious communities. A member of clergy licensed to serve in connection with a religious community will be subject to the terms of service set out in the Regulations only to the extent (if at all) that he or she also exercises ministry under some other form of licence (for example, a licence to minister in a parish). *Subsection (2)* makes consequential amendments.
23. *Subsection (3)* inserts provision in regulation 3, which is concerned with the statement of initial particulars of office under common tenure. The new provision will enable the Archbishops' Council to issue guidance on the preparation of statements of particulars and require a person preparing such a statement to have regard to that guidance, thus ensuring a consistency of approach in the preparation of those documents.
24. *Subsection (4)* updates references in regulation 19 to "continuing ministerial education" so that they become references to "continuing ministerial development" (the term which is now generally used in practice). *Subsection (5)* makes a consequential amendment.
25. *Subsection (6)* is a technical provision to ensure that the amendments made to the 2009 Regulations by clause 5 could themselves be amended subsequently by using the existing power to amend the Regulations by secondary legislation.

**Clause 6 Delegation of episcopal functions**

26. Clause 6 amends the Dioceses, Pastoral and Mission Measure 2007 (“the 2007 Measure”) on the matter of the delegation of episcopal functions.
27. *Subsection (1)* inserts a new section 14A in the 2007 Measure to provide a general power for either archbishop to delegate archiepiscopal functions to the other archbishop, or to a diocesan, suffragan or assistant bishop, where the archbishop is unable to exercise the functions. This would, for example, enable an archbishop who was due to be on sabbatical or to travel overseas to make arrangements for the exercise of specified archiepiscopal functions in his or her absence. The existing power of either archbishop to delegate functions in respect of his or her own diocese (namely, Canterbury or York) on the same basis as other diocesan bishops is unaffected. *Subsections (4) and (5)* make consequential amendments.
28. *Subsections (2) and (3)* remove provisions which prevent suffragan bishops and bishops acting during vacancies in diocesan sees from dealing with faculties under Canon C 4.5. A faculty under Canon C 4.5 is required where a person to be ordained has remarried and has a living former spouse or has married somebody who has a living former spouse.

**Clause 7 Lay residentiary canons**

29. Clause 7 amends the Cathedrals Measure 2021 to provide that the constitution of a cathedral may permit the appointment of a lay residentiary canon.
30. *Subsection (1)* inserts a new section 14A in the Cathedrals Measure 2021 to enable, but not require, the constitution of a cathedral to provide for the appointment of certain lay persons as residentiary canons. A lay person is eligible for appointment only if he or she has been admitted as a reader or lay worker for at least six years and is licensed to serve as such. It will be for each Chapter to decide whether to bring forward amendments to its cathedral’s constitution to include provision permitting lay residentiary canonries. As with any amendment to a cathedral’s constitution or statutes, the consent of the bishop and of the Church Commissioners will be required.
31. *Subsection (2)* introduces Schedule 1, which makes amendments to legislation in consequence of, or in connection with, the amendment made by subsection (1). The amendments are explained in detail below in the section on Schedule 1.
32. *Subsection (3)* enables the making of further amendments to other legislation as a result of the introduction of lay residentiary canons. The Archbishops’ Council is to have the power to make such amendments by secondary legislation. The procedure for making the secondary legislation is set out in clause 22.
33. *Subsection (4)* is a technical provision which ensures that the power under subsection (3) is not constrained by the contents of Schedule 1. If, for example, it were to transpire that a further consequential amendment was needed to the Cathedral Measure 2021, it could not be argued that the amendments already made to that Measure by Schedule 1 were all the amendments that were required.
34. *Subsection (5)* is another technical provision, which ensures that the amendment made to the Ecclesiastical Offices (Terms of Service) Regulations 2009 by paragraph 8 of

Schedule 1 could itself be amended subsequently by using the existing power to amend the Regulations by secondary legislation

**Clause 8 Registered patron disqualified from election: exercise of patronage**

39. Clause 9 inserts a new section 25A in the Patronage (Benefices) Measure 1986. The new section 25A provides that, where the registered patron of a benefice is disqualified under Rule 68 of the Church Representation Rules (safeguarding cases), the Diocesan Board of Patronage will instead exercise the right of patronage.

**Clause 9 Judges: appointments and retirement**

40. Clause 9 amends the law on the appointment and retirement of ecclesiastical judges.
41. *Subsection (1)* amends section 2 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 so that chancellors, who will continue to be appointed by diocesan bishops, are appointed on the recommendation of the Dean of the Arches and Auditor (as the head of the ecclesiastical judiciary). Although currently the Dean must be consulted before a chancellor is appointed, it is possible for an individual to be appointed even if the Dean has advised that he or she should not be. As head of the ecclesiastical judiciary, the Dean is best placed to know whether a particular individual has the necessary skills and experience to serve as an ecclesiastical judge. As the person with oversight of the ecclesiastical judiciary, the Dean can also ensure that appointments are made on a fair and equitable basis, taking account of the need to increase diversity among the ecclesiastical judiciary.
42. *Subsection (2)* transfers the existing duty to consult the Lord Chancellor when appointing a diocesan chancellor from the bishop to the Dean of the Arches and Auditor. That brings section 2 into line with what currently happens in practice.
43. *Subsection (3)* updates the provisions in section 21 of the Clergy Discipline Measure 2003 which set out the statutory qualifications for legal members of provincial panels (namely, the judges who chair clergy discipline tribunals). The current reference in section 21 to persons “who have a seven year general qualification” is now outdated. The amendment would replace it with a reference to persons who hold or have held “high judicial office” (that is, High Court judge or above) or who hold or have held the office of circuit judge or have the qualifications required for holding that office.
44. *Subsection (4)* updates section 42(3) of the Ecclesiastical Jurisdiction Measure 1963 (on the composition of a committee of inquiry into a complaint against a bishop for an offence of doctrine, ritual or ceremonial). The qualification for being deputy of the Dean of the Arches and Auditor on a committee of inquiry is to be holding or having held high judicial office or having the qualifications for appointment as a High Court judge.

**Clause 10 Judges: training**

46. Clause 10 amends the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (“the 2018 Measure”) to give the Dean of the Arches and Auditor power to make regulations setting out training requirements to be met by ecclesiastical judges.
47. *Subsection (1)* inserts new section 21A in the 2018 Measure to give the Dean power to make the regulations. The Dean must obtain the agreement of the Vicar-General of

each province before doing so. Where the regulations would impose requirements on judges who chair clergy discipline tribunals, the Dean must also obtain the agreement of the President of Tribunals. Regulations made under the new section 21A must be laid before the General Synod and do not come into force unless approved by it.

48. *Subsection (2)* amends section 94(1) of the 2018 Measure so that regulations under new section 21A will be made by statutory instrument subject to annulment by either House of Parliament.

### **Clause 11 Disciplinary proceedings**

49. Clause 11 amends the legislation on ecclesiastical disciplinary proceedings.
50. *Subsections (1) and (2)* amend the Church of England (Legal Aid) Measure 1994 by adding a further category to the list of proceedings for which legal aid may be given. The amendments enable a respondent in disciplinary proceedings to apply for legal aid if a decision by the President of Tribunals in favour of the respondent is subsequently challenged by judicial review (brought by a complainant, for example). Such a challenge would technically be brought against the President of Tribunals but judges whose decisions are challenged are not usually involved in judicial review proceedings. The party seeking to have the decision upheld, and who needs to defend the judicial review proceedings, is the respondent in the original disciplinary proceedings. It is therefore that person who may need representation in the judicial review proceedings and who will, subject to the discretion of the Legal Aid Commission, be eligible for a grant of legal aid for that purpose.
51. *Subsection (3)* amends section 20 of the Clergy Discipline Measure 2003 to provide that an application for leave to appeal against a decision of a clergy discipline tribunal is determined by a single judge rather than as, at present, by a judge and one other person (which can cause delay in the determination of the application). The single judge will be either the Dean of the Arches and Auditor or a person nominated by the Dean from among the panel of chairs of clergy discipline tribunals.
52. *Subsection (4)* makes an amendment to the Clergy Discipline (Appeal) Rules 2005 that is consequential on the amendment made by subsection (3).
53. *Subsection (5)* makes amendments which are consequential to Amending Canon No 42 (Safeguarding), updating references to “diocesan safeguarding advisor” to “diocesan safeguarding officer.”
54. *Subsection (5)* is a technical provision which ensures that the amendments made by subsections (4) and (5)(d) can themselves be amended subsequently by using the existing power to amend the Rules concerned by secondary legislation.

### **Clause 12 Live broadcast of proceedings**

54. Clause 12 amends the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 to put provision for the broadcast of proceedings in an ecclesiastical court on a statutory footing.

55. The new section 93A sets out the steps that a court must take when directing that proceedings are to be broadcast live. It also provides that it will be a contempt of court to use the broadcast proceedings in certain prohibited ways.

### **Clause 13 Care of churches**

56. Clause 13 amends provisions in the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 that are concerned with the care of churches.
57. *Subsection (1)* adds a new requirement in section 35 (duty to have regard to church's purpose) so that a person carrying out functions of care and conservation under the 2018 Measure must have due regard to the importance of environmental protection (as well as to the role of a church as a local centre of worship and mission).
58. *Subsection (2)* amends section 37 so that a diocesan advisory commission can assist a parochial church council (or other relevant person, such as an archdeacon) by carrying out consultation requirements on the council's behalf.
59. *Subsection (3)* amends the provisions in Schedule 2 concerned with the constitution of diocesan advisory committees. The provision requiring one member to be appointed after consulting local authorities is removed. A new provision is added to require the appointment of a member who has knowledge of environmental matters.
60. *Subsection (4)* amends Schedule 2 to require each diocesan advisory committee to include at least one person with direct experience and knowledge of accessibility issues.
61. *Subsections (5) and (6)* amend section 78 to permit, without the need for a faculty, the introduction of a monument erected on the curtilage of a church or other consecrated building or on consecrated ground. That change will put on a statutory footing the current practice of chancellors making churchyard regulations.

### **Clause 14 Disposals etc. of land**

62. Clause 14 amends the Church Property Measure 2018 and the Sharing of Church Buildings Act 1969 to remove lacunae, update references and remove unnecessary provisions.
63. *Subsection (1)* amends section 43 of the Church Property Measure 2018 so that, where a benefice is vacant, the power that is usually exercisable by the incumbent to dedicate as highway land that forms part of the garden of, or adjoins, the parsonage house is exercisable by the priest-in-charge appointed for the benefice or (if none is appointed) the bishop at the request of the parochial church council(s).
64. *Subsection (2)* provides a general power that can be used in relation to land where a benefice is vacant. As matters stand, there is no general provision that enables anybody to act in relation to church or benefice property when a benefice is vacant. That has the potential to cause problems when a parish wishes to grant a licence or other legal right in respect of the church or churchyard, or to enter into an agreement for the release of a covenant or some other right that exists in favour of a church or churchyard. For example, it is not clear in the case of a vacant benefice who, if anybody, has power to grant a wayleave to carry a cable over a churchyard or to grant

a licence for the use of the church building by a community group. The new section 45A inserted in the Church Property Measure by subsection (2) will address that lacuna. It enables the priest-in-charge or (if none is appointed) the bishop at the request of the parochial church council(s) to do anything in relation to land which an incumbent could have done, including, for example, being a party to the grant of a licence. But the person exercising the power must, as an incumbent would have had to, obtain a faculty to authorise the grant of a licence in the usual way following a resolution of the parochial church council and public consultation.

65. *Subsection (3)* inserts a definition of disposal of land in the Church Property Measure that would have the same meaning as in the Law of Property Act 1925.
66. *Subsections (4) and (5)* update the Sharing of Church Buildings Act 1969 so that references to certain repealed provisions become references to the restated provisions in the consolidating Mission and Pastoral Measure 2011.
67. *Subsection (5)* also amends the 1969 Act to make further provision for making sharing agreements where a benefice is vacant. The 1969 Act currently allows “the minister in charge” of the parish to be a party to a sharing agreement in place of an incumbent where there is a minister in charge holding office. But it makes no provision for the case where there is neither an incumbent nor a minister in charge. The amendment in subsection (5)(b) additionally enables the bishop to be a party to a sharing agreement, where a benefice is vacant. The parties to a sharing agreement in every case also include the diocesan board of finance and the parochial church council.
68. *Subsection (6)* inserts a definition of the (currently undefined) term “minister in charge” in section 1(6) of the 1969 Act, so that it includes a curate licensed to the charge of the parish or a priest in charge.
69. *Subsection (7)* removes provisions in the Church Property Measure which relate to stamp duty land tax. The provisions are unnecessary, as church bodies benefit from the charity exemption from stamp duty land tax.

#### **Clause 15 Care of cathedrals**

70. Clause 15 amends the Care of Cathedrals Measure 2011.
71. *Subsections (1) and (2)* amend section 2 to provide for the matters for which approval is required also to include the removal of an object of architectural, archaeological, artistic or historic interest to a place where the object is to be put on display.
72. *Subsection (3)* amends Schedule 1 to change the composition of the Cathedrals Fabric Commission so that the single bishop who is to be appointed may be any diocesan bishop or any suffragan bishop rather than just one who is a member of the House of Bishops. In practice, this means any member of the College of Bishops.

#### **Clause 16 Dealings in church property: role of designated adviser**

73. Clause 16 amends the Church Property Measure 2018.
74. *Subsections (1) and (2)* require that, before a lease of diocesan glebe land is granted, a written report on the terms of the proposed lease must be obtained from a “designated adviser” (instead of a qualified surveyor). That will allow for the



appointment of a professional from a wider category that is prescribed by regulations made by the government. It will also bring the Church Property Measure into line with amendments that are to be made to the Charities Act 2011 by the Charities Act 2022.

75. *Subsection (3)* defines “designated adviser” for the purposes of the Church Property Measure by reference to the amended section 119(1) of the Charities Act 2011.
76. *Subsections (4) and (5)* make consequential amendments.

#### **Clause 17 Elections under Church Representation Rules**

77. Clause 17 amends the Church Representation Rules (set out in Schedule 3 to the Synodical Government Measure 1969).
78. *Subsection (1)* makes a drafting correction to rule 45 (which provides for filling casual vacancies among the members of diocesan synods).
79. *Subsection (2)* amends rule M8 so that the bishop may vary the eligibility requirements for election to a parochial church council by waiving the requirement that a person must be an actual communicant or the requirement that a person must have had his or her name on the church electoral roll for at least six months.

#### **Clause 18 Church Commissioners’ functions etc.**

80. Clause 18 amends the Church Commissioners Measure 1947, and the Mission and Pastoral Measure 2011, in relation to the functions of the Church Commissioners.
81. *Subsection (1)* inserts a new provision in section 5 of the 1947 Measure to enable committees established by the Measure or by the Commissioners’ Board of Governors to establish sub-committees and to delegate functions to them, and for sub-committees to delegate functions to their chair or deputy chair or to officers.
82. *Subsection (2)* inserts new provision in section 6 of the 1947 Measure so that standing orders made by the Board of Governors or the Assets Committee may authorise an appropriate officer to act on behalf of a person who has been authorised to act on behalf of the Board or a committee.
83. *Subsection (3)* amends section 7 of the 1947 Measure so that standing orders to regulate the procedure of a sub-committee are made by the committee which established that sub-committee and that such a sub-committee may regulate its own procedure, subject to those standing orders.
84. *Subsection (4)* amends section 10 of the 1947 Measure to give the Commissioners an express power to borrow money. The view of the Official Solicitor to the Church Commissioners is that they already have the power to borrow, having taken over that power from Queen Anne’s Bounty when the 1947 Measure came into force (hence the inclusion of the words “in so far as they do not have power to do so apart from this subsection” in the new section 10(7)). However, it is considered desirable to put the matter beyond doubt by providing an express power to borrow.
85. *Subsection (5)* is consequential on the amendment made by subsection (1) and amends section 18 of the 1947 Measure to provide that references in the Measure to a committee are to be read as including references to a sub-committee. As a result,

the procedural safeguards in the Measure which apply to committees will also apply to sub-committees (including, for example, the requirement that Commissioners must make up a majority of the members).

86. *Subsection (6)* amends the 1947 Measure to ensure that consistent reference is made to the “Audit and Risk Committee” on the face of the Measure (instead of the remaining references to the Audit Committee).
87. *Subsection (7)* amends section 94(1) of the Mission and Pastoral Measure 2011 so that the Commissioners are no longer prevented from meeting their legal expenses in connection with the disposal of closed churches from the proceeds of sale where the legal work is carried out by the Commissioners’ internal lawyers (in addition to the fees of external legal advisers as presently permitted).

### ***Clause 19 Pensions Board: appointments during vacancy in archbishopric***

88. Clause 19 amends the Church of England Pensions Measure 2018. The amendment to paragraph 1 of Schedule 1 provides that, where the see of one of the archbishops is vacant, the joint power of the archbishops to make certain appointments to the Church of England Pensions Board is instead to be exercisable by the other archbishop acting alone.

### ***Clause 20 Meetings***

89. *Subsection (1)* introduces Schedule 2, which amends legislation to make provision on remote and hybrid meetings. Those amendments are discussed in detail below in the separate section on Schedule 2.
90. *Subsection (2)* amends the Dioceses, Pastoral and Mission Measure 2007 to enable the Dioceses Commission to conduct business by correspondence.

### ***Clause 21 Orders: procedure***

91. Clause 21 sets out the procedure to be followed in the case of an order under clause 7 (lay residentiary canons: power to make consequential amendments) or under paragraph 10 of Schedule 2 (remote meetings: power to make other amendments).
92. *Subsection (1)* provides that an order under either of those provisions is to be laid in draft before the General Synod.
93. *Subsection (2)* provides that, If the order is approved by Synod without amendment, the Archbishops’ Council is to make the order. If it is approved by the Synod with amendment, the Archbishops’ Council can either make the order as amended or withdraw it for further consideration.
94. *Subsection (3)* provides that the order is made by the Archbishops’ Council applying its seal. It is, though, to be noted that, by virtue paragraph 12A of Schedule 1 to the National Institutions Measure 1998, the requirement for applying the seal can be met instead by having the order signed by two members of the Archbishops’ Council or two duly authorised officers.

95. *Subsection (4)* provides that the Business Committee of the Synod may designate the order as one which is to be deemed approved unless a member of Synod tables an amendment or requests a debate.
96. *Subsection (5)* provides that the order is to be made by statutory instrument subject to annulment by either House of Parliament.

**Clause 22 Short title, commencement and extent**

97. Clause 22 provides for the citation of the Measure, for its commencement (including the making of transitional, transitory and saving provision) and for its territorial extent (including specific provision for the Isle of Man).

**Schedule 1 Lay residentiary canons: ancillary amendments**

98. The amendments in Schedule 1 are drafted on the basis that a lay residentiary canon will hold office under common tenure and will be in a position analogous to a licensed reader or lay worker.
99. *Paragraph 1* makes non-textual amendment to the Ecclesiastical Commissioners Act 1840. Sub-paragraph (1) provides context by restating the effect of the new section 14A(2) of the Cathedrals Measure 2021 (inserted by clause 7(1)). Sub-paragraph (2) provides that the rest of the 1840 Act does not apply to a lay residentiary canon.
100. *Paragraph 2* amends the Church Representation Rules so that a scheme made by a diocesan synod for representation on a deanery synod of the residentiary canons of the cathedral could also provide for representation of a lay residentiary canon.
101. *Paragraph 3* amends the Schedule to the Ecclesiastical Offices (Age Limit) Measure 1975, which lists the ecclesiastical offices subject to the prohibition on service beyond the age of 70. The list already includes residentiary canons but on the basis that they are clergy. It also refers to those on common tenure, following an amendment by the Ecclesiastical Offices (Terms of Service) Measure 2009 but it is not clear that that reference was intended to include ecclesiastical offices the nature of which was not foreseen in 2009. To avoid any doubt there might otherwise be, paragraph 3 adds an express reference to lay residentiary canons.
102. *Paragraphs 4 to 7* amend the Ecclesiastical Offices (Terms of Service) Measure 2009. Paragraph 4 amends section 1 to provide for a lay residentiary canon to be subject to common tenure. A lay residentiary canon will be subject to sections 3A and 3B of that Measure and so will be liable to removal or suspension from that office. Paragraph 7 amends section 4 to provide that a lay residentiary canon is not entitled to a house of residence from the Chapter but could be provided with one on a discretionary basis.
103. *Paragraph 8* amends the Ecclesiastical Offices (Terms of Service) Regulations 2009. Those Regulations will apply to a lay residentiary canon as the holder of an office subject to common tenure. Those Regulations also make special provision for certain residentiary canons, known as “qualifying residentiary canons” (defined in regulation 2(4)), and lay residentiary canons will come within that category. As a result, a lay residentiary canon who is an executive member of the Chapter of a cathedral will be subject to an annual review with the dean.

104. *Paragraph 9* amends the Care of Cathedrals Measure 2011. In particular, it amends section 11, which provides for certain decisions of the Cathedrals Fabric Commission to be sent for review by the Commission of Review. Section 11(3)(b) provides that the membership of the Commission of Review must include a person appointed by the archbishops who is or has been a dean, provost or residentiary canon of a cathedral other than the one to which the review relates. Paragraph 9 will ensure that a person who is or has been a lay residentiary canon is eligible for appointment.
105. *Paragraphs 10 to 13* amend the Church of England Pensions Measure 2018 to provide for a lay residentiary canon to be treated in the same way as a licensed lay worker. Therefore, a lay residentiary canon will be eligible for membership of the funded scheme and the Church Commissioners will not be liable to meet any of the pension costs. The Church of England Pensions Board will have the power to provide a lay residentiary canon with a retirement home or with a loan to buy or improve a house.
106. *Paragraphs 14 to 27* amend the Cathedrals Measure 2021 as follows—
- (1) In section 3 and Schedule 2, a lay residentiary canon is a member of the College of Canons.
  - (2) In section 9, the bishop has the power to appoint a lay residentiary canon.
  - (3) In section 12, a lay residentiary canon is subject to the same requirements for accountability as the cathedral clergy.
  - (4) In section 13, a lay residentiary canon is not eligible for appointment as interim dean.
  - (5) In section 14, a lay residentiary canon is not eligible to be one of the two fulltime residentiary canons required to be engaged exclusively on cathedral duties.
  - (5) In section 19, a lay residentiary canon is entitled to have departmental or operational responsibility and is therefore eligible for membership of the senior management group.
  - (6) In section 22, there is an acknowledgment that a lay residentiary canon can occupy a house of residence.
  - (7) In section 28, a lay residentiary canon is not entitled to payment from the Church Commissioners' general fund as a residentiary canon engaged on cathedral duties.
  - (8) In section 40, the Church Representation Rules are further modified so that a lay residentiary canon is entitled to attend and participate in an annual or special parochial church meeting.
  - (9) In Schedule 1, a lay residentiary canon is a member of the Chapter and, if the office holder carries out cathedral duties, will be eligible to be an executive member. A lay residentiary canon who is an executive member is entitled to pay from the Chapter for work relating to the cathedral.

**Schedule 2 Remote meetings**

107. Schedule 2 amends miscellaneous statutes to provide for certain Church of England bodies to hold and conduct business at remote or hybrid meetings.
108. *Paragraphs 1 to 9* make provision on remote meetings for a parochial church council, a diocesan synod, a deanery synod, a parochial church meeting, a parishioners' meeting to choose churchwardens, the Chapter of a cathedral, a Diocesan Board of Education, the Church Buildings Council, and a board of patronage under a pastoral scheme.
109. *Paragraph 10* gives the Archbishops' Council power by secondary legislation to make provision, including textual amendments of Measures and instruments made under them, on remote meetings.

The Legal Office  
Church House, Westminster

May 2023

### The text of enactments as amended

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

#### Clause 1

*Amendments to sections 1 and 3 of the General Synod (Remote Meetings) (~~Temporary Standing Orders~~) Measure 2020*

#### **1 Power to make special standing orders for remote meetings of General Synod**

- (1) The officers of the General Synod acting jointly may make standing orders for persons to attend, speak at, vote in, or otherwise participate in meetings of the General Synod without all of the persons, or without any of the persons, being together in the same place.
- (2) The officers of the General Synod are—
  - (a) the Archbishops of Canterbury and York,
  - (b) the Prolocutors of the Convocations of Canterbury and York, and
  - (c) the Chair and Vice-Chair of the House of Laity of the General Synod.
- (3) The officers of the General Synod may exercise the power to make standing orders under this section only once; and they may not amend or revoke standing orders made under this section (but section 4 confers a power to amend or revoke on the General Synod itself).
- (4) Standing orders under this section may disapply or modify provisions of the Standing Orders of the General Synod.
- (5) ~~Standing orders under this section may not include provision which would apply to business on—~~
  - (a) ~~a Measure, Canon or other provision touching any of the matters referred to in Article 7(1) of the Constitution,~~
  - (b) ~~a Measure or Canon to which Article 8 of the Constitution applies by virtue of paragraph (1) of that Article, or~~
  - (c) ~~a scheme to which Article 8 of the Constitution applies by virtue of paragraph (1) or (1A) of that Article.~~
- (6) If an office referred to in subsection (2) is vacant, the power under this section is exercisable by the holders of such of the offices as are filled acting jointly; and the duties imposed by section 2 are, accordingly, also to be carried out on that basis.
- (7) ~~In this Measure, “the Constitution” means the Constitution of the General Synod set out in Schedule 2 to the Synodical Government Measure 1969.~~

#### **3 Operation of special standing orders**

- (1) Standing orders made under section 1 come into operation on the day after that on which they are published under section 2(3)(a) and continue in operation pending the decision by the General Synod on the question of whether to approve the standing orders.
- (2) The question of whether to approve the standing orders is to be the first item of business at the first meeting of the General Synod held (in whatever manner) after the standing orders come into operation.
- (3) The provisions of the Standing Orders of the General Synod relating to the consideration of an instrument made under a Measure or Canon apply to the standing orders as they apply to such an instrument; and for that purpose the requirement in section 2(3)(a) applies instead of the deadline for providing members of the Synod with a copy of the instrument concerned before it is due to be considered by Synod.
- (4) If the standing orders are approved by the General Synod (with or without amendment), they continue in operation until the end of the period of 12 months beginning with the day on which they are so approved.
- (5) But the General Synod may resolve that the standing orders—
  - (a) are not to cease to be in operation at the time when they would otherwise cease to be so under subsection (4) or under the most recent resolution made under this subsection or subsection (6), and
  - (b) ~~are instead to continue in operation after that time for such period as the General Synod specifies in the resolution.~~ **are instead to continue in operation (with or without amendment) either for such period as the General Synod may specify in the resolution or for an indefinite period.**
- (6) If standing orders under section 1 have ceased to be in operation (whether under this section or section 4), the General Synod may resolve that they are to be revived (with or without amendment) and to be in operation ~~for such period as the General Synod specifies in the resolution~~ **either for such period as the General Synod may specify in the resolution or for an indefinite period**; and they are to be treated as being in operation so far as necessary for the purpose of enabling the Synod to consider whether to pass a resolution under this subsection.
- (7) Standing orders under section 1 have effect in spite of any provision in the Constitution or in the Standing Orders of the General Synod with which they are inconsistent; **and “the Constitution” means the Constitution of the General Synod set out in Schedule 2 to the Synodical Government Measure 1969.**

### **Clause 3**

#### *Amendments to section 5C of the Safeguarding and Clergy Discipline Measure 2016*

#### **5C Code of Practice: scrutiny and commencement**

- (1) The code under section 5A does not come into operation unless and until—
  - (a) the Clerk to the General Synod, on the instructions of the House of Bishops, has caused the code to be published on the Church of England website and has sent a copy of the code to each member of the General Synod, and
  - (b) the code has been approved by the General Synod.

- (2) If, before the end of the period of three weeks beginning with the date on which the Clerk to the General Synod has complied with subsection (1)(a), 25 members of the General Synod have not given notice in writing to the Clerk that they wish the code to be debated, the code is to be treated for the purposes of subsection (1)(b) as having been approved by the General Synod at the end of that period.
- (3) If, before the end of that period, 25 members of the General Synod have given notice of the kind mentioned in subsection (2)—
  - (a) the Clerk to the General Synod must inform the Business Committee, and
  - (b) the Business Committee must secure that a debate on a motion for approval of the code is held at the next group of sessions.
- (4) In subsection (3), “the Business Committee” means the Committee of the General Synod appointed in accordance with section 10 of the National Institutions Measure 1998.
- (5) A reference in this section to the code under section 5A includes a reference to a revision of the code; **but subsection (1)(b) does not apply in the case of—**
  - (a) **proposed revisions to requirements imposed by the Code on relevant persons, if the House of Bishops considers that those proposed revisions are insubstantial, or**
  - (b) **proposed revisions to guidance given by the Code to relevant persons on compliance with requirements imposed by the Code on them.**

#### **Clause 4**

##### *Amendments to section 11 of the Dioceses, Pastoral and Mission Measure 2007*

#### **11 Change of name of see**

(1) Without prejudice to any other powers of Her Majesty in Council in relation to sees, Her Majesty in Council, on receipt of a petition from the bishop of the diocese concerned under this section, shall have power to change the name of any diocesan or suffragan see.

(2) Before submitting a petition under subsection (1) above **to change the name of a diocesan see**, the bishop shall first consult the Commission and obtain the approval of the diocesan synod of the diocese concerned and shall then, if he decides to proceed with the petition, lay the petition, together with a report thereon from the Commission, before the General Synod for its approval.

**(2A) Before submitting a petition under subsection (1) to change the name of a suffragan see, the bishop shall first consult the Commission and obtain the approval of the diocesan synod of the diocese concerned; the bishop may then, if the bishop decides to proceed with the petition, forward it to His Majesty in Council.**

(3) Where the Business Committee of the General Synod determines that ~~any such petition~~ **a petition under subsection (1) to change the name of a diocesan see** does not need to be debated by the Synod, then, unless notice is given by a member of the Synod in accordance with its Standing Orders that that member wishes the petition to be debated, the petition shall for the purposes of subsection (2) above be deemed to have been approved by the Synod.

(4) Where the petition is approved by the General Synod the bishop of the diocese may forward it to Her Majesty in Council.



**Clause 5**

*Amendments to regulations 2 and 3 of the Ecclesiastical Offices (Terms of Service) Regulations 2009*

**2 Interpretation**

(1) In these Regulations—

“capability procedures” means the procedures described in regulation 31 below;

“grievance procedures” means the procedures described in regulation 32 below;

“working day” means any day which is not a rest day or part of a rest period or which is not taken as part of annual or special leave or any such leave as is referred to in regulation 23(1) below and cognate expressions shall be construed accordingly;

“the Measure” means the Ecclesiastical Offices (Terms of Service) Measure 2009;

(2) Subject to ~~paragraph (3)~~ **paragraphs (3) and (3A)** below, these Regulations apply to all office holders holding office subject to Common Tenure, whenever appointed to their office, and the following provisions of these Regulations (except regulation 33(3) below) shall apply to an office holder who becomes subject to Common Tenure whilst holding his or her office as if he or she had taken up that office on the day on which he or she became subject to Common Tenure.

(3) Where an office holder holds an office in pursuance of a contract of employment, these Regulations shall not apply to the office holder in respect of that office, without prejudice to the application of the Regulations in respect of any other office held by that office holder.

**(3A) These Regulations do not apply to a person licensed under section 2A of the ExtraParochial Ministry Measure 1967 (ministry by member of religious community) in respect of the performance of offices or services in accordance with that licence.**

(4) For the purposes of these Regulations, a residentiary canon is a “qualifying residentiary canon” if—

(a) the Commissioners are required to make payments to the residentiary canon under section 28(1)(b) of the Cathedrals Measure 2021,

(b) the Chapter of the cathedral concerned pays the whole of the residentiary canon's stipend or other emoluments and provides the residentiary canon's housing, or

(c) the residentiary canon does not come within sub-paragraph (a) or (b) but the Chapter of the cathedral concerned has resolved that the residentiary canon is nonetheless to be regarded as being a qualifying residentiary canon.

**3 Statement of initial particulars of office**

(1) An office holder shall be given a written statement of particulars of office by— (a) an officer of the diocese nominated for that purpose by the diocesan bishop, or

(b) in the case of an office holder who is an archbishop or a diocesan bishop, by an officer of the province nominated by the registrar of the province in which the diocese is situated.

(2) The statement may be given in instalments and (whether or not given in instalments) shall be given not later than the relevant date.

- (3) The relevant date for the purposes of paragraph (2) above shall be the expiry of the period of one month from the date on which the office holder took up the office.
- (4) The statement shall contain particulars of—
- (a) the name of the office holder and the title or description of the officer nominated by the bishop or registrar under paragraph (1) above and the body which is to be treated, for the purpose of these Regulations, as the respondent in any proceedings brought by the office holder before an employment tribunal,
  - (b) the title of the office to which the office holder has been appointed, and
  - (c) the date when the appointment took effect.
- (5) The statement shall also contain particulars, as at a specified date not more than seven days before the statement (or the instalment containing them) is given, of—
- (a) whether the office holder is entitled to a stipend and, if so, the amount of the stipend or the method of calculating it,
  - (b) the person or body responsible for the payment of the stipend,
  - (c) the intervals at which any stipend is payable (that is, weekly, monthly or other specified intervals),
  - (d) whether the office holder is entitled to receive parochial fees and the relationship, if any, of the receipt of such fees to any stipend,
  - (e) any terms and conditions relating to the reimbursement of expenses incurred in connection with the exercise of the office,
  - (f) whether the office is full-time or part-time and, in the case of part-time posts, and of posts for which special provision has been made for hours of work, any terms and conditions relating to hours of work (including any terms and conditions relating to normal working hours),
  - (g) any terms and conditions relating to any of the following—
    - (i) entitlement to rest periods and holidays, including public holidays,
    - (ii) incapacity for work due to sickness or injury, including any provision for sick pay,
    - (iii) pensions and pensions schemes, including, where the office holder comes within either the Church of England Pensions Scheme or the Church of England Funded Pensions Scheme, or both, a statement to that effect, and
    - (iv) entitlements to maternity, paternity, parental[, adoption, shared parental and parental bereavement leave] [and time off work to care for dependants] in accordance with regulation 23 below,
  - (h) where the office holder is required, for the better performance of his or her duties, to occupy any particular residence, details of the address of the property concerned, the person or body to whom or which it belongs, the terms of occupation and any contents to be provided by the relevant housing provider,
  - (i) the length of notice which the office holder is required to give and, if applicable, receive to terminate the appointment, and

- (j) where the appointment is not intended to be permanent, the circumstances in which it may be terminated or, if it is for a fixed term, the date when it is to end.
- (6) **The Archbishops' Council may issue guidance on the preparation of a statement under this regulation.**
- (7) **A person preparing a statement under this regulation must, in doing so, have regard to any guidance that is issued under paragraph (6).**

## **Clause 6**

*Amendments to sections 13(1), 14(1) and 16 of the Dioceses, Pastoral and Mission Measure 2007*

### **13 Delegation by instrument of certain functions to suffragan bishop or assistant bishop**

- (1) Subject to the provisions of this section, the bishop of a diocese may by an instrument under his hand delegate to a suffragan bishop of the diocese such of his functions as may be specified in the instrument ~~except functions under any Canon made under section 9(2) of the Clergy (Ordination and Miscellaneous Provisions) Measure 1964 (1964 No 6) . . . (1993 No 2).~~

### **14 Discharge of certain functions of bishop**

- (1) If—
  - (a) the bishop of a diocese has executed an irreversible instrument of resignation as bishop or the bishop considers that he will be unable to discharge any or all of his functions by reason of disability, illness or absence from his diocese or by reason of his forthcoming translation to another see; and
  - (b) there is no person in episcopal orders in the diocese who is for the time being authorised to discharge the relevant functions of the bishop,

the bishop may (in the case of resignation or translation before the resignation or translation takes effect) by an instrument under his hand delegate to a person holding office as a diocesan, suffragan or assistant bishop in the Church of England, without the consent of the diocesan synod, but after consultation with the bishop's council and standing committee of that synod, unless the bishop is unable to consult the bishop's council and standing committee by reason of his disability or illness, such of his functions as may be specified in the instrument, ~~except functions to which an instrument made under section 13 above relates and functions under any Canon made under section 9(2) of the Clergy (Ordination and Miscellaneous Provisions) Measure 1964 (1964 No 6) . . . (1993 No 2).~~

### **16 Provision with respect to Acts, etc which confer functions on a diocesan bishop or an archbishop**

- (1) Any Act, Measure or Canon which confers or imposes on the bishop of a diocese any functions which by virtue of an instrument made under section 13 or 14 above or a reorganisation scheme may be discharged by a suffragan bishop shall have effect in any diocese subject to the provisions of any such instrument or scheme relating to that diocese and for the time being in force, and references in that Act, Measure or Canon to the bishop of a diocese shall be construed accordingly.
- (2) **Any Act, Measure or Canon which confers or imposes on an archbishop functions which by virtue of an instrument made under section 14A may be discharged by the other archbishop, or by the bishop specified in the instrument, has effect in the province subject**

**to the provisions of the instrument for the time being in force, and references in that Act, Measure or Canon to the archbishop are to be construed accordingly.**

## **Clause 9**

*Amendments to sections 2 and 3 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018*

### **2 Judge: appointment**

- (1) The consistory court of a diocese is to be presided over by a single judge, appointed by the bishop of the diocese by letters patent **on the recommendation of the Dean of the Arches and Auditor.**
- (2) The judge is to continue to be known as the chancellor of the diocese or, in the case of the diocese of Canterbury, the commissary general.
- (3) Accordingly, a reference in this Measure to the chancellor of a diocese is, in the case of the diocese of Canterbury, to be read as a reference to the commissary general.
- (4) A person may be appointed as chancellor of a diocese only if the person—
  - (a) holds or has held high judicial office, or
  - (b) holds or has held the office of circuit judge or has the qualifications required for holding that office.
- (5) A lay person may be appointed as chancellor of a diocese only if the bishop is satisfied that the person is a communicant.
- (6) ~~Before appointing a person as chancellor of a diocese, the bishop must consult—~~
  - (a) ~~the Lord Chancellor, and~~
  - (b) ~~the Dean of the Arches and Auditor.~~
- (6) Before making a recommendation under subsection (1), the Dean of the Arches and Auditor must consult the Lord Chancellor as well as the bishop.**

### **3 Judge: term of office**

- (1) The term of a person's appointment as chancellor of a diocese—
  - (a) begins with the date of the appointment, and
  - (b) subject to the following provisions of this section, ends with the day on which the person reaches the age of ~~70~~**75**.
- (2) The chancellor of a diocese may resign the office by instrument in writing signed by him or her and addressed to, and served on, the bishop of the diocese.
- (3) The bishop of a diocese may remove the chancellor of the diocese from office if the Upper House of the Convocation of the province concerned resolves that he or she is incapable of acting or unfit to act; and such a resolution must be filed in the registry of the province concerned.

- (4) Where, during the course of proceedings in the consistory court, the chancellor of the diocese reaches the age of ~~70~~ **75**, he or she may continue to act as chancellor for the purposes of the proceedings as if the day on which the proceedings concluded in that court were the day on which he or she reached that age.
- ~~(5) Where the bishop of a diocese considers that it would be desirable in the interests of the diocese to retain the chancellor in office after the date on which he or she would otherwise retire under subsection (1) or (4), the bishop may authorise the continuance in office of the chancellor after that date for a period of up to two years.~~
- ~~(6) The bishop of a diocese may authorise the further continuance in office of the chancellor of the diocese for periods of up to one year at a time.~~
- ~~(7) The period during which a person remains in office as chancellor may not be continued under subsection (5) or (6) beyond the date on which the person reaches the age of 75.~~
- ~~(8) Before authorising a period of continuance under subsection (5) or (6), the bishop must consult the Dean of the Arches and Auditor.~~
- ~~(9) Where the chancellor of a diocese is continuing in office under subsection (5) or (6) and, during the course of proceedings in the consistory court, the period of continuance under that subsection expires, he or she may continue to act as chancellor for the purposes of the proceedings as if the day on which the proceedings concluded in that court were the day on which the period of continuance expired.~~
- (10) The references in subsections (1) and (4) to reaching the age of ~~70~~ **75** apply only in the case of a person appointed as chancellor on or after 31 March 1995; in the case of a person appointed as chancellor before that date, the references are to be read as references to reaching the age at which a circuit judge appointed on the day on which the person was appointed as chancellor would be obliged to vacate office.

*Amendments to section 21 of the Clergy Discipline Measure 2003*

**21 Provincial panels**

- (1) It shall be the duty of the Clergy Discipline Commission to compile and maintain for each province, in accordance with the provisions of subsection (2) below, a list (hereinafter referred to as “the provincial panel”) of persons available for appointment under the following provisions of this Measure as members of a disciplinary tribunal or of the Vicar-General's court.
- (2) Each provincial panel shall contain the names of—
- (a) two lay persons from each diocese nominated by the bishop of the diocese after consultation with the bishop's council, being persons who are resident in the diocese and are on the electoral roll of a parish in the diocese or on the community roll of a cathedral which is not a parish church;
  - (b) two persons in Holy Orders from each diocese nominated by the bishop of the diocese after consultation with the bishop's council, being persons who have served in Holy Orders for at least seven years and are resident in the diocese;
  - (c) ten persons nominated by the archbishop of the relevant province, being persons ~~who have a seven year general qualification within the meaning of section 71 of the Courts~~

~~and Legal Services Act 1990 (c 41) or who have held or are holding high judicial office or the office of Circuit judge who—~~

- (i) hold or have held high judicial office, or
- (ii) hold or have held the office of circuit judge or have the qualifications required for holding that office;
- (d) such persons as may be nominated under subsection (3) below.

[Subsections (3) to (8) not included here]

## **Clause 11**

*Amendments to Schedule 1 to the Church of England (Legal Aid) Measure 1994*

### **SCHEDULE 1**

#### **PROCEEDINGS FOR WHICH LEGAL AID MAY BE GIVEN**

##### *Description of proceedings*

##### *Description of applicants*

- |  |  |
|--|--|
| <p>1. Proceedings in any ecclesiastical court or before any disciplinary tribunal commission, committee, bishop or examiner in respect of an offence under the Ecclesiastical Jurisdiction Measure 1963 or of misconduct under the Clergy Discipline Measure 2003.</p> | <p>Any accused person.</p>   |
| <p>2. Proceedings on an enquiry under Part I of the Incumbents (Vacation of Benefices) Measure 1977 conducted by a provincial tribunal.</p>  | <p>The incumbent concerned in the proceedings.</p>   |
| <p>5. Proceedings on an appeal under any Canon made in pursuance of section 7 of the Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 against revocation of a licence granted to a minister, deaconess, lay worker or stipendiary reader.</p>   | <p>The appellant.</p>  |
| <p>6. Proceedings on an appeal under section 50 of the Ecclesiastical Jurisdiction Measure 1963 against an intended deposition of a priest or deacon from Holy Orders.</p>   | <p>The appellant.</p>  |
| <p>7. Proceedings on an appeal under section 36(6) or by virtue of section 37(6) of the Clergy Discipline Measure 2003 against a suspension made in reliance on section 36(1)(e) or 37(1)(e) of that Measure.</p>  | <p>The appellant.</p>  |
| <p><b>8. Proceedings on a claim for judicial review of a decision by the president of tribunals on disciplinary proceedings under the Clergy Discipline Measure 2003.</b></p>  | <p><b>Any person who, as a respondent to the disciplinary proceedings, is an interested party in the proceedings on the claim for judicial review.</b></p> |

**NOTES**

**1** In item 8, “interested party” has the meaning given in Civil Procedure Rules relating to judicial review.

*Amendment to section 20 of the Clergy Discipline Measure 2003*

**20 Right of appeal**

(1) Subject to the following provisions of this section, in disciplinary proceedings under this Measure—

(a) the respondent may appeal against any penalty imposed on him, and

(b) the respondent on a question of law or fact, and the designated officer, on a question of law, may appeal against any finding of the disciplinary tribunal or the Vicar-General's court, to the Arches Court of Canterbury (where the proceedings take place in the province of Canterbury) or the Chancery Court of York (where the proceedings take place in the province of York).

(1A) An appeal by the respondent or the designated officer may only be brought with the leave of the disciplinary tribunal or the Vicar-General's court, as the case may be, or the appeal court.

(1B) Any application for leave of the appeal court under subsection (1A)—

~~(a) shall be heard jointly by the Dean of the Arches and Auditor and one judge appointed by the president of tribunals for the purpose of those proceedings from among the persons serving on the provincial panel of the relevant province, who shall be a lay person in the case of an application by the respondent and a person in Holy Orders in the case of an application by the designated officer;~~

**(a) shall, at the direction of the Dean of the Arches and Auditor, be heard either—**

**(i) by the Dean of the Arches and Auditor sitting alone, or**

**(ii) if the Dean is unable to hear the application, by a single person appointed by the Dean from among those nominated under section 21(2)(c) to serve on the relevant provincial panel;**

~~(b) may, if the Dean of the Arches and Auditor so directs, be determined without a hearing; and~~

~~(c) shall be granted if at least one of the judges~~ **the person hearing the application** considers either that the appeal would have a real prospect of success or that there is some other compelling reason why the appeal should be heard.

(1C) If the disciplinary tribunal or the court grants the application for leave, it may direct that the issues to be heard on the appeal be limited in such way as the tribunal or the court may specify.

*[Subsections (2) to (5) not included here]*

**Clause 13**

*Amendments to sections 35 and 78 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018*

**35 Duty to have regard to church's purpose and environmental protection**

A person carrying out functions of care and conservation under this Measure, or under any other enactment or any rule of law relating to churches, must have due regard to— **(a)** the role of a church as a local centre of worship and mission, **and**

**(b) the importance of environmental protection.**

## **78 Power of chancellor to specify matters**

- (1) The chancellor of a diocese may by order provide that a matter specified in the order may be undertaken without a faculty (in addition to the matters that are specified in rules by virtue of section 77(1)).
- (2) An order under subsection (1)—
  - (a) may specify a matter only if it could be specified in rules by virtue of section 77(1) **(but see subsection (2A))**;
  - (b) may specify such conditions as may be specified in rules by virtue of section 77(2);
  - (c) may apply to the whole or a specified part of the diocese.

**(2A) The reference in subsection (2)(a) to section 77(1) is to be read as a reference in section 77(1) as it has effect subject only to section 77(7)(a) to (j); accordingly, an order under this section may specify a matter referred to in section 77(7)(k) (introduction of monuments etc.).**

- (3) Where the chancellor of a diocese considers that there are special circumstances affecting a parish or church, churchyard or other building or place in the diocese which justify doing so, he or she may by order provide that a matter specified in the order may not be undertaken without a faculty even though it is a matter that is specified by virtue of section 77(1).
- (4) The chancellor of a diocese must seek the advice of the advisory committee before making an order under subsection (1) or (3), unless he or she is satisfied that the matter is sufficiently urgent to justify making an order without obtaining the committee's advice.
- (5) The chancellor of a diocese must send each order he or she makes under subsection (1) or (3) to the registrar of the diocese; and the registrar must file each order in the diocesan registry.
- (6) Where an order is made under subsection (3), the registrar must serve a copy of the order on—
  - (a) the minister and churchwardens of every parish affected by the order,
  - (b) the archdeacon of every archdeaconry in which a parish affected by the order is situated, and
  - (c) the secretary of the advisory committee.
- (7) Any churchwardens on whom a copy of an order is served under subsection (6) must—
  - (a) keep it with the inventory maintained under section 49(1), and
  - (b) insert a copy of it in the log-book maintained under section 49(2).
- (8) The chancellor of a diocese may by order vary or revoke an order made under subsection (1) or (3) in relation to the diocese; and a reference in this section to an order under subsection (1) or (3) includes a reference to an order varying or revoking the order.



*Amendments to paragraph 2 of Schedule 2 to the Ecclesiastical Jurisdiction and Care of Churches Measure 2018*

**SCHEDULE 2**

**DIOCESAN ADVISORY COMMITTEE: CONSTITUTION**

*Membership: appointment*

2 (1) The committee consists of—

- (a) a chair,
- (b) the archdeacon of each archdeaconry in the diocese, and
- (c) at least 12 other members.

(2) The chair is appointed by the bishop of the diocese after consultation with—

- (a) the bishop's council,
- (b) the chancellor of the diocese, and
- (c) the Church Buildings Council.

(3) The other members are—

- (a) two persons appointed by the bishop's council of the diocese from among the elected members of the diocesan synod,
- (b) at least ten other persons appointed by the bishop's council of the diocese of whom—
  - (i) one is appointed after consultation with the Historic Buildings and Monuments Commission for England,
  - (ii) ~~one is appointed after consultation with such associations as the Dean of the Arches and Auditor may from time to time designate as the relevant associations of local authorities in relation to the diocese,~~ and
  - (iii) one is appointed after consultation with the national amenity societies, and
- (c) such other persons as may be co-opted under paragraph 5.

(4) In making an appointment under sub-paragraph (3)(b), the bishop's council must ensure that the persons so appointed have between them—

- (a) knowledge of the history, development and use of church buildings,
- (b) knowledge of Church of England liturgy and worship,
- (c) knowledge of architecture, archaeology, art and history, and (d) experience of the care of historic buildings and their contents, **and**
- (e) knowledge of environmental matters.**

**(4A) At least one of the members, whether under sub-paragraph (3)(b) or (c), must have personal knowledge and experience of issues that need to be addressed when considering how to secure accessibility for disabled people to buildings and facilities.**

*[Subsections (5) and (6) not included here]*

**Clause 15***Amendments to section 2(1) and (2) of the Care of Cathedrals Measure 2011***2 Approval required for alterations to cathedrals**

(1) Subject to subsection (2) and to sections 5 and 6 the Chapter of a cathedral shall not, unless it has been approved under this Measure, implement or consent to the implementation of any proposal—

(a) for the carrying out of works, including works of repair or maintenance, on, above or below land the fee simple in which is vested in the corporate body, being works which would materially affect—

- (i) the architectural, archaeological, artistic or historic character of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
- (ii) the immediate setting of the cathedral church, or
- (iii) any archaeological remains in or under the cathedral church or within its precinct, or
- (iv) any human remains in or under the cathedral church or within its precinct, or

(b) for the sale, loan or other disposal of any object the property in which is vested in the corporate body or which is in the possession or custody of the corporate body or to whose possession or custody the corporate body is entitled, being an object of architectural, archaeological, artistic or historic interest, including any object to which section 7 applies,

**(ba) for the removal of any such object as is referred to in paragraph (b) from the cathedral church, from a building within its precinct or from anywhere else within its precinct, to a place where the object is to be put on display, or**

(c) for the carrying out of any work to any such object as is referred to in paragraph (b) which would materially affect the architectural, archaeological, artistic or historic character of the object, or

(d) for the permanent addition to the cathedral church of any object which would materially affect the architectural, archaeological, artistic or historic character of the cathedral church. (2) Subsection (1) shall not apply in relation to anything which—

- (a) is done by the Chapter in furtherance of its duties under the constitution and statutes of the cathedral church with respect to the ordering of services or otherwise in furtherance of the mission of the cathedral church,
- (b) **except in a case within subsection (1)(ba)**, is of a temporary nature, and
- (c) does not materially affect the fabric of the cathedral church.

*Amendment to paragraph 3 of Schedule 1 to the Care of Cathedrals Measure 2011*

3 Seventeen members of the Commission shall be appointed by the Archbishops of Canterbury and York as follows—

- (a) one member shall be appointed on the nomination of the House of Bishops from among ~~the members of that House~~ **those who hold office as a diocesan or suffragan bishop**;
- (b) two members shall be appointed on the nomination of such organisation as appears to the Archbishops to be representative of the deans of cathedral churches and at least one of those two members shall be a dean of a cathedral church;
- (c) three members shall be appointed on the nomination of the Church Buildings Council, of whom two shall be selected from among the members of the Council or a committee of the Council;
- (d) two members shall be persons holding office as cathedral architects or surveyors of the fabric one of whom shall be appointed after consultation with the President of the Royal Institute of British Architects and the other shall be appointed after consultation with that President and the President of the Royal Institution of Chartered Surveyors;
- (e) one member shall be an architect or chartered building surveyor appointed after consultation with the President of the Ecclesiastical Architects and Surveyors Association and one member shall be a chartered engineer appointed after consultation with the President of the Institution of Structural Engineers and the President of the Institution of Civil Engineers, being persons with experience of the care of historic buildings;
- (f) one member shall be a painter, sculptor or other artist, with experience of work for cathedral or other churches, who shall be appointed after consultation with the President of the Royal Academy of Art;
- (g) six members shall be appointed as follows—
  - (i) one shall be appointed after consultation with the Secretary of State;
  - (ii) one shall be appointed after consultation with the Chairman of English Heritage;
  - (iii) one shall be appointed after consultation with the President of the Council for British Archaeology and the President of the Society of Antiquaries of London;
  - (iv) two shall be appointed after consultation with the Chairman of the Liturgical Commission; and
  - (v) one shall be appointed after consultation with the Director of the Royal School of Church Music.

## **Clause 16**

*Amendment to section 20 of the Church Property Measure 2018*

### **20 Dealings**

- (1) The power of a DBF or management subsidiary to deal with diocesan glebe land (whether by way of sale, exchange, lease, mortgage, charge or otherwise) is exercisable in accordance with this section and sections 21 and 22.

- (2) The DBF or subsidiary may, if it thinks it necessary, include such terms for safeguarding the amenities of land that will be affected by the proposed transaction as it considers reasonable and proper, having regard to all the circumstances.
  - (3) A DBF or management subsidiary may permit a person to reside, without paying rent, in a dwelling house situated on the diocesan glebe land if the bishop of the diocese has declared that the person is engaged in the cure of souls within the diocese.
  - (4) Where a DBF or management subsidiary sells, exchanges or leases diocesan glebe land and the document giving effect to the transaction includes a restrictive covenant imposed for the benefit of church land or parsonage land, the covenant is enforceable by the DBF or subsidiary as if it were the owner of that land.
- (4A) A DBF or management subsidiary may grant a lease of diocesan glebe land, other than a short lease (as to which, see subsection (5)), only if—**
- (a) it has obtained a written report on the proposed transaction from a designated adviser instructed by and acting exclusively for it, and**
  - (b) having considered the report, it is satisfied that the terms of the proposed transaction are the best that can reasonably be obtained for the diocese.**
- (5) A DBF or management subsidiary may grant a short lease of diocesan glebe land only if—
    - (a) it has obtained advice on the proposed transaction from a person who it believes has the necessary ability and practical experience to provide it with competent advice, and**
    - (b) having considered the advice, it is satisfied that the terms of the proposed transaction are the best that can be reasonably obtained for the diocese.**
  - (6) “Short lease” means a lease for a term of no more than seven years which is not granted wholly or partly at a premium.

## **Clause 17**

### *Amendment to Rule M8 of the Church Representation Rules*

#### **Qualifications of persons to be elected**

##### **M8**

- (1) A person is qualified for election as a parochial representative of the laity to the deanery synod or PCC under Rule M6(1)(a) or (b) if—
  - (a) the person is aged 16 or over,
  - (b) he or she is an actual communicant, and
  - (c) his or her name is on the roll of the parish and, unless he or she is aged under 18 at the date of the election, has been on the roll for at least the preceding six months.
- (2) But if the person has his or her name on the roll of more than one parish, he or she must choose one of the parishes concerned for the purpose of qualifying for election as a parochial representative of the laity to the deanery synod.

**(2A) Where a person does not satisfy the condition in paragraph (1)(b), or the condition in paragraph (1)(c) for the person's name to have been on the roll for at least the previous six months, the bishop may waive the condition concerned so far as it applies to qualification for election to the PCC, if the bishop considers there are exceptional circumstances which justify waiving the condition.**

*[Remainder of Rule M8 not included here]*

## **Clause 18**

*Amendments to sections 5, 6(4) and 7 of the Church Commissioners Measure 1947*

### **5 Constitution and functions of Board of Governors**

- (1) The Board shall consist of the Commissioners mentioned in paragraph 1(b) of Schedule 1 to this Measure.
- (2) The Archbishop of Canterbury shall be the chairman of the Board and—
  - (a) he may appoint a deputy chairman from among the members of the Board, who may act as chairman in the Archbishop's absence at any meeting to be held during the period of five years following the date of his appointment; and
  - (b) if neither the chairman nor the deputy chairman is present at any meeting, the members attending the meeting may elect a member to act as chairman of that meeting.
- (3) Subject to the provisions of this Measure, all the functions and business of the Commissioners shall be exercised and transacted by the Board.
- (4) The Board shall have power—
  - (a) to refer for consideration and report any matter within their jurisdiction to the Assets Committee or the Audit **and Risk** Committee, or to any other committee which the Board may appoint for the purpose or which the Board and the Archbishops' Council acting jointly may appoint;
  - (b) to authorise the Assets Committee or any other such committee as aforesaid, to do and complete any matter on behalf of the Board;
  - (c) to make general rules for the direction and guidance of the Assets Committee or any committee appointed by the Board, as to the matters and acts to be considered and done by that committee, and as to the general principles upon which that committee shall act in carrying out such functions as may from time to time be delegated to them by the Board.
- (4A) Commissioners shall constitute a majority of the members of any committee appointed under subsection (4)(a) above.
- (4B) A committee constituted by or under this Measure may itself establish one or more sub-committees and may delegate functions to any sub-committee so established.**
- (4C) A sub-committee established by a committee constituted by or under this Measure may itself delegate functions to the chair or deputy chair of the sub-committee or to an appropriate officer.**

### **6 Assets Committee and Audit and Risk Committee**

(4) The Standing Orders regulating the procedure of the Board, the Assets Committee or any committee appointed by the Board may provide for—

(a) authorising the chairman, deputy chairman or an appropriate officer to act on behalf of the Board, the Assets Committee or other committee, as the case may be, in relation to such matters as the Board **or the committee in question** may think fit;

(b) **authorising an appropriate officer to act in relation to a matter on behalf of a person authorised by virtue of paragraph (a) to act in relation to that matter.**

## 7 Procedure

(1) The provisions of the Fourth Schedule to this Measure shall have effect with regard to the meetings and procedure of the Commissioners and of the Board and of any committee constituted by or under this Measure.

(1A) A majority of the members of the Board, and a majority of the members of each committee constituted by or under this Measure, must be members of the Church of England.

(2) Subject as aforesaid and to any other provisions of this Measure—

(a) the Commissioners may regulate their own procedure and may from time to time at any general meeting make, vary and revoke Standing Orders for the purpose;

(b) the Board may from time to time make, vary and revoke Standing Orders for regulating the procedure of the Board or of any Committee of the Board **(but not a sub-committee established by a committee of the Board)** and subject to any such Standing Orders the Board and any such committee may regulate their own procedure;

(c) the Assets Committee and the Audit **and Risk** Committee may regulate their own procedure and may from time to time make, vary and revoke Standing Orders for the purpose;

(d) **a committee constituted by or under this Measure which establishes a subcommittee may from time to time make, vary and revoke Standing Orders for regulating the procedure of the sub-committee and subject to any such Standing Orders the sub-committee may regulate its own procedure.**

### *Amendment to section 94(1) of the Mission and Pastoral Measure 2011*

#### **94 Payment of expenses from diocesan pastoral accounts and application of moneys**

(1) Expenses incurred by or on behalf of, or under the authority or direction of, the bishop of any diocese or any mission and pastoral committee or the Commissioners for the purposes of this Measure or any scheme or order made shall be paid out of the moneys standing to the credit of the diocesan pastoral account so far as those moneys suffice, but any such expenses shall not include the salaries or wages of persons in the regular employment of the bishop, any board or committee of the diocese, ~~or the Commissioners,~~ or any part of any such salaries or wages.

### **Clause 19**

#### *Amendment to paragraph 1 of Schedule 1 to the Church of England Pensions Measure 2018*

(1) The Board has 12 members, including the chair.

- (2) The chair is appointed by the Archbishops of Canterbury and York, with the approval of the General Synod.
- (3) Four members are elected as follows—
  - (a) two are elected by and from the members of the funded scheme and the members of the past service scheme (who for this purpose constitute a single electorate), with at least one of them being a member of the House of Clergy,
  - (b) one is elected by and from the members of the workers' fund, and
  - (c) one is elected by and from the members of the administrators' fund.
- (4) One member is elected by the employers who participate in the workers' fund or the administrators' fund.
- (5) One member is appointed by the Archbishops of Canterbury and York after consulting the Church Commissioners and consulting persons who—
  - (a) are officers or members of a diocesan board of finance or are members of the House of Clergy or the House of Laity elected for a diocese, and
  - (b) are chosen under arrangements approved by the Archbishops of Canterbury and York to represent dioceses in consultations on financial matters.
- (6) One member is appointed by the Archbishops of Canterbury and York after consulting the Chair of the House of Laity and the chair of the Appointments Committee of the Church of England.
- (7) One member is appointed by the Archbishops of Canterbury and York after consulting the Prolocutors of the Convocations of Canterbury and York and the chair of the Appointments Committee of the Church of England.
- (8) Three members are appointed by the Archbishops of Canterbury and York, each of them having professional expertise which, in the opinion of the Archbishops, is relevant to membership of the Board.

*[Subsections (9) to (11) not included here]*

(12) The functions of the Archbishop of Canterbury and York under this paragraph are exercisable by them jointly; and the functions under this paragraph of the three persons making a decision under sub-paragraph (9) are exercisable by them jointly.

**(13) But where there is a vacancy in the see of one of the Archbishops, the functions of the Archbishops under this paragraph are exercisable by the other Archbishop.**