Church of England (Miscellaneous Provisions) Measure 1983

1983 No. 2

A MEASURE passed by The General Synod of the Church of England to amend the New Parishes Measure 1943, the Parsonages Measure 1938, the Parochial Church Councils (Powers) Measure 1956, the Ecclesiastical Judges and Legal Officers Measure 1976, and the Bishops (Retirement) Measure 1951; to make further provision with respect to the discharge of the functions of a bishop or archdeacon and the constitution of an Appeal Tribunal for the compensation of clergy; and to make provision for transferring a house and muniment room in Lichfield from the Registrar of Lichfield to the Diocesan Board of Finance; and for purposes connected therewith.

[9th May 1983]

Acquisition of churches and sites for church halls. 1943 No. 1.

1.—(1) In section 13(1) of the New Parishes Measure 1943—

(*a*) for paragraph (*bb*) (use of a building as a church hall, etc.) there shall be substituted—

"(*bb*) any building to be used as a church hall or both as a church or other place of worship and as a church hall or any land for the site of a building to be so used or for enlarging the site of an existing building so used;";

(*b*) in paragraph (*e*) after the word "church" there shall be inserted the words "church hall,".

(2) For paragraphs (*a*) and (*b*) of section 16(3) of the said Measure (vesting of building or land acquired under section 13) there shall be substituted—

"(*a*) a building to be used as a church hall or both as a church or other place of worship and as a church hall;

(*b*) land for the site of a building to be so used or for enlarging the site of an existing building so used;

(*bb*) land required for providing access to or for improving the amenities of a building which is to be, or is, so used; ".

1976 No. 4.

(3) In section 23(2) of the Endowments and Glebe Measure 1976 (appropriation of diocesan glebe land) for the words from "that is to say" to the end there shall be substituted "(provision of building or land for use as a church hall or for use both as a place of worship and as a church hall, etc.)".

Power to grant land if benefice vacant.
1943 No. 1.

2.—(1) After section 14(1) of the New Parishes Measure 1943 (power of corporations, etc., to grant land for sites of churches, etc.) there shall be inserted—

"(1A) During a vacancy in a benefice the power under subsection (1) of this section which would have been exercisable by the incumbent of the benefice had the benefice been full, shall be exercisable by the bishop.".

(2) For section 14(2) of the said Measure (disposal of proceeds where grantor is incumbent) there shall be substituted—

"(2) Where the grantor is the incumbent of a benefice in his capacity as such, or where during a vacancy in a benefice the grantor is the bishop, the purchase money shall be paid to the Church Commissioners and shall be appropriated by them for the benefit of the diocesan stipends fund.".

Diocesan authority.

3. After section 16(4) of the New Parishes Measure 1943 there shall be inserted—

"(5) In this section "diocesan authority" means the body which is for the time being authorised by the relevant diocesan synod to act as trustees of the trust property of the diocese or, if there is no such body, the diocesan board of finance.".

Powers of selling parsonage houses, etc.
1938 No. 3.

4. At the end of section 1(4) of the Parsonages Measure 1938 there shall be inserted the words "and in respect of any property belonging to a benefice, being property which consists of an outbuilding, garden or orchard of a house which has been sold or otherwise disposed of under this Measure, and any land contiguous to, or appurtenances enjoyed with, such a house or any part of such property.".

Functions of parochial church councils.
1956 No. 3.

5. In section 2 of the Parochial Church Councils (Powers) Measure 1956 (which requires the incumbent and parochial church council to consult together on certain matters and provides for the functions of such councils), for the word "incumbent", in both places where that word occurs, there shall be substituted the word "minister".

Appointment of registrar of a province. 1976 No. 2.

6.—(1) In section 3(3) of the Ecclesiastical Judges and Legal Officers Measure 1976 (archbishop to appoint registrar of the province but before making appointment to consult standing committee of the General Synod), the words from " but " to the end are hereby repealed.

(2) At the end of the said section 3 there shall be inserted—

" (5) Where any person to be appointed to such office is to perform such of the functions mentioned in subsection (2) above as consist of functions conferred or imposed on the registrars of the General Synod or either of them or functions relating to or connected with the election or choice of members of the Convocation of Canterbury or York or the House of Laity of the General Synod, the archbishop by whom that person is to be appointed shall before making the appointment consult the standing committee of the General Synod.".

Retirement of certain bishops. 1951 No. 2.

7.—(1) In section 3 of the Bishops (Retirement) Measure 1951 (retirement of bishop if change of administration is desirable), for the words " by whom he is commissioned " there shall be substituted the words " to whom he is suffragan ".

(2) In section 11 of the said Measure (bishops to whom the Measure applies), for the words " commissioned by " there shall be substituted the words " suffragan to ".

(3) In section 16(1) of the said Measure (interpretation) in the definition of " the archbishop " for the words " by whom he is commissioned " there shall be substituted the words " to whom he is suffragan ".

Discharge of certain functions of bishop.

8.—(1) If—

(*a*) the bishop of a diocese has executed an irreversible deed of resignation as bishop or the bishop considers that he will be unable to discharge any or all of his functions by reason of illness or absence from his diocese, and

(*b*) there is no person in episcopal orders in the diocese who is for the time being authorised to discharge the functions of the bishop,

the bishop may by an instrument under his hand delegate to a person in episcopal orders who is a member of the Church of England without the consent of the diocesan synod but after consultation with the bishop's council and standing committee unless the bishop is unable to consult the bishop's council and standing committee by reason of his illness such of his functions as may be specified in the instrument, except functions to which an instrument made under section 10 of the Dioceses Measure 1978 or a scheme made under section 11 of that Measure relates. 1978 No. 1.

(2) The instrument made by a bishop under subsection (1) above shall remain in operation for a period specified in the instrument which shall not be longer than six months but which may be extended by the archbishop of the province.

(3) Where a see is vacant or where the bishop of a diocese is not able to, or does not otherwise, exercise the power conferred on him by subsection (1) above to delegate all of his functions which he may delegate, the archbishop of the province shall exercise the power in lieu of the bishop without the consultation with the bishop's council and standing committee required by subsection (1) of this section; and if that archbishop is unable by reason of illness or absence from his province to exercise the power under this subsection or if the see of that archbishop is vacant the power shall be exercised by the senior bishop of the province.

(4) Such an instrument made under this section shall come into operation on the day after the day on which it is made or on such later date as may be specified therein.

(5) A power of appointment under subsection (1) or (3) above may be exercised by the appointment of two or more persons qualified for such appointment and by the division among them, whether territorially or otherwise, of the functions to be performed.

(6) Where a function which has been delegated under this section requires the application of the bishop's seal to a document, the document shall be issued as though it were a deed and be executed by the person to whom the function has been delegated.

(7) A statement in a document issued by a person to whom a function has been delegated under this section that the function has been so delegated to him shall be conclusive evidence of that fact.

(8) An instrument made under this section may be varied or revoked by a subsequent instrument similarly made.

(9) On making an instrument under this section or on making an irreversible deed of resignation the person making the document shall send a certified copy to the Church Commissioners and to the registrar of the diocese, and the registrar shall file it in the diocesan registry.

(10) The making of an instrument under this section shall not be taken as divesting the bishop of the diocese of any of his functions.

(11) Section 5(1) of the Ecclesiastical Offices (Age Limit) Measure 1975, section 3 of the Church of England (Miscellaneous Provisions) Measure 1976, section 43 of the Endowments and Glebe Measure 1976 and section 11(2) of the Church

1975 No. 2.
1976 No. 3.
1976 No. 4.

of England (Miscellaneous Provisions) Measure 1978 are hereby repealed. 1978 No. 3.

(12) Any instrument made by a bishop before this section comes into operation relating to his resignation as bishop or relating to the delegation of his functions as bishop and which requires to be implemented, shall be deemed to have been made under this section.

(13) In this section—

"irreversible deed" means a deed duly executed and completed by the bishop which has been accepted by the archbishop of the province;

"senior bishop" means, in the province of Canterbury, the bishop of London and after him the bishop of Winchester and, in the province of York, the bishop of Durham and subject thereto the diocesan bishop who has held office as diocesan bishop in the province in question without interruption from any cause for the longest time.

Discharge of certain functions of archdeacon.

9.—(1) Where an archdeaconry is vacant or an archdeacon is unable by reason of illness or absence to carry out any or all of his functions, the bishop of the diocese in which the archdeaconry is may appoint by an instrument under his hand a person in priest's orders to perform any or all of the archdeacon's functions for a period specified in the instrument.

(2) A power of appointment under this section may be exercised by the appointment of two or more persons qualified for such appointment and by the division among them, whether territorially or otherwise, of their function or functions to be performed.

(3) A statement in a document issued in the performance of any such function that the person by whom the document is signed or executed has been duly appointed under this section to perform that function shall be conclusive evidence of that fact.

(4) Nothing in this section shall be taken to affect the power of the bishop under section 9(2) of the Faculty Jurisdiction Measure 1964 (power to appoint person to act in place of an archdeacon in a particular case) or section 2(2) of the Incumbents (Vacation of Benefices) Measure 1977 (power to appoint another archdeacon to act in a particular case where archdeaconry is vacant). 1964 No. 5. 1977 No. 1.

Amendment of s. 10 Dioceses Measure 1978. 1978 No. 1

10. In section 10 of the Dioceses Measure 1978 after subsection (12) there shall be inserted—

"(12A) Where any function specified in an instrument under this section requires the application of the bishop's

seal to a document, the document shall be issued as though it were a deed and be executed by the person authorised by the instrument to discharge that function.

(12B) A statement in a document issued in discharging any such function that the person by whom the document is signed or executed has been duly authorised by an instrument under this section to discharge that function shall be conclusive evidence of that fact.".

Constitution of Appeal Tribunal for compensation of clergy. 1968 No. 1.

11.—(1) In paragraph 14(1)(*a*) of Schedule 4 to the Pastoral Measure 1968 (chairman of Appeal Tribunal for compensation of clergy) for the words "and the" to the end of paragraph 14(1)(*a*) there shall be substituted "and the Vicar-General of each of the Provinces of Canterbury and York shall be deputy chairmen and one or other of the three (but not more than one) shall sit on each appeal and shall preside:

Provided that if none of the three is available to preside over an appeal, a chancellor of a diocese nominated by the Dean of the Arches and Auditor or, in his absence or illness, by the Vicar-General of the Province concerned shall preside over the appeal.".

(2) In paragraphs 14(1)(*b*) of the said Schedule 4 (clergy empanelled for Appeal Tribunal for compensation of clergy)—

(*a*) for the word "six" there shall be substituted the word "twelve"; and

(*b*) for the words "nominated" to the end of paragraph 14(1)(*b*) there shall be substituted the words "nominated as aforesaid for each appeal.".

(3) In paragraph 14(1)(*c*) of the said Schedule 4 (laymen empanelled for Appeal Tribunal for compensation of clergy)—

(*a*) for the word "four" there shall be substituted the word "twelve"; and

(*b*) after the word "determine" there shall be inserted the words "not less than one-half of whom are barristers at law or solicitors in England and Wales.".

(4) Subsections (2) and (3) of this section shall come into operation on such day as the Archbishops of Canterbury and York may jointly appoint.

Transfer of house and muniment room from Registrar of Lichfield to Diocesan Board of Finance.

12. Whereas the house of residence in the Cathedral Close, Lichfield, in the county of Staffordshire (now named 19, The Close, Lichfield, Staffordshire) was and is vested in the Registrar of the diocese of Lichfield; and whereas the said house included and includes the muniment room of the said diocese; and whereas the Act of 37 George III c. 20 (Private) (which relates to the Canons, Deanery and Prebends of the Cathedral Church

of Lichfield) in part referred to the said house and muniment room and transferred them to the Registrar of the diocese of Lichfield;

(1) The said house and muniment room shall, when Michael Brook Sheffield Exham (the present Registrar of the diocese of Lichfield) ceases to hold the office of Registrar in the diocese of Lichfield, be transferred to and vest in the Board of Finance of the diocese of Lichfield without any conveyance or other assurance.

(2) The said house and muniment room may be disposed of in accordance with paragraph 9 of Schedule 3 to the Pastoral Measure 1968 as if they had been transferred to the said Board of Finance by a pastoral scheme within the meaning of that Measure.

(3) That part of the said Act which relates to the said house and muniment room shall be repealed immediately before the said house and muniment room are under this section transferred to the said Board of Finance.

Short title, extent and commencement.

13.—(1) This Measure may be cited as the Church of England (Miscellaneous Provisions) Measure 1983.

(2) This Measure shall extend to the whole of the provinces of Canterbury and York except the Channel Islands and the Isle of Man, but may be applied to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either of them, in accordance with those Measures and may be extended to the Isle of Man by Act of Tynwald.

(3) This Measure, subject to the provisions of section 11(4) of this Measure, shall come into operation at the expiration of one month beginning with the day on which it is passed.