

Churchwardens Measure 2001

2001 No. 1

A Measure passed by the General Synod of the Church of England to make fresh provision with respect to churchwardens in the Church of England.

[10th April 2001]

1 Number and qualifications of churchwardens

- (1) Subject to the provisions of this Measure there shall be two churchwardens of every parish.
- (2)
 - (a) Where by virtue of a designation made by a pastoral scheme or otherwise a parish has more than one parish church, two churchwardens shall be appointed for each of the parish churches, and this Measure shall apply separately to each pair of churchwardens, but all the churchwardens shall be churchwardens of the whole parish except so far as they may arrange to perform separate duties in relation to the several parish churches.
 - (b) A church building, or part of a building designated as a parish centre of worship under section 29(2) of the Pastoral Measure 1983 (1983 No. 1) shall, subject to subsection (4) of that section, be deemed while the designation is in force to be a parish church for the purposes of this subsection.
- (3) The churchwardens of every parish shall be chosen from persons who have been baptised and—
 - a) whose names are on the church electoral roll of the parish;
 - b) who are actual communicants;
 - c) who are twenty-one years of age or upwards; and
 - d) who are not disqualified under section 2 or 3 below.
- (4) If it appears to the bishop, in the case of any particular person who is not qualified by virtue of paragraph (a), (b) or (c) of subsection (3) above, that there are exceptional circumstances which justify a departure from the requirements of those paragraphs the bishop may permit that person to hold the office of churchwarden notwithstanding that those requirements are not met. Any such permission shall apply only to the period of office next following the date on which the permission is given.
- (5) No person shall be chosen as churchwarden of a parish for any period of office unless he—
 - a) has signified consent to serve as such; and
 - b) has not signified consent to serve as such for the same period of office in any other parish (not being a related parish) or, if such consent has been signified and the meeting of the parishioners to elect churchwardens of that other parish has been held, was not chosen as churchwarden of that other parish.

In this subsection “related parish” means a parish—

 - a) belonging to the benefice to which the first-mentioned parish belongs; or
 - b) belonging to a benefice held in plurality with the benefice to which the first-mentioned parish belongs; or
 - c) having the same minister as the first-mentioned parish.
- (6) In relation to the filling of a casual vacancy among the churchwardens the reference in subsection (5)(b) above to the same period of office shall be construed as a reference to a period of office which includes the period for which the casual vacancy is to be filled.

2 General disqualifications

- (1) A person shall be disqualified from being chosen for the office of churchwarden if he is disqualified from being a charity trustee under section 72(1) of the Charities Act 1993 (c. 10) and the disqualification is

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not for the time being subject to a general waiver by the [^{F1}Charity Commission][^{F2} under section 178 of the Charities Act 2011 and the disqualification is not for the time being subject to a general waiver by the Charity Commission under section 181 of that Act or to a waiver by it under that section] in respect of all ecclesiastical charities established for purposes relating to the parish concerned.

In this subsection “ecclesiastical charity” has the same meaning as that assigned to that expression in the Local Government Act 1894 (c. 73).

[^{F3}(1A) A person shall be disqualified from being chosen for the office of churchwarden if the person is included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006).]

(2)(a) A person shall be disqualified from being chosen for the office of churchwarden if he has been convicted of any offence mentioned in Schedule 1 to the Children and Young Persons Act 1933 (c. 12).

^{F4}(b).

(3) A person shall be disqualified from being chosen for the office of churchwarden if he is disqualified from holding that office under section 10(6) of the Incumbents (Vacation of Benefices) Measure 1977 (No. 1).

[^{F5}(3A) A person's disqualification under subsection (2)(a) may be waived by the bishop serving written notice on the person; and the notice must specify the bishop's reasons for giving the waiver.

(3B) A waiver under subsection (3A)—

- a) is of unlimited duration, and
- b) has effect in every diocese.

(3C) Before giving a waiver under subsection (3A), the bishop must consult—

- a) the diocesan safeguarding advisor, and
- b) such other persons as the bishop considers appropriate.

(3D) On serving a notice under subsection (3A), the bishop shall give a copy of the notice to the registrar of the diocese; and the registrar shall file the copy in the diocesan registry.]

(4) All rules of law whereby certain persons are disqualified from being chosen for the office of churchwarden shall cease to have effect.

Amendments (Textual)

F1Words in s. 2(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 198(a); S.I. 2007/309, art. 2, Sch.

F2Words in s. 2(1) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, Sch. 7 para. 93 (with s. 20(2), Sch. 8)

F3S. 2(1A) inserted (1.1.2017) by Safeguarding and Clergy Discipline Measure 2016 (No. 1), ss. 2(1), 12(3); S.I. 2016/1213, art. 2

F4S. 2(2)(b) omitted (1.1.2017) by virtue of Safeguarding and Clergy Discipline Measure 2016 (No. 1), ss. 2(2), 12(3); S.I. 2016/1213, art. 2

F5S. 2(3A)-(3D) inserted (1.1.2017) by Safeguarding and Clergy Discipline Measure 2016 (No. 1), ss. 2(3), 12(3); S.I. 2016/1213, art. 2

3 Disqualification after six periods of office

Without prejudice to section 2 above, a person shall be disqualified from being chosen for the office of churchwarden when that person has served as a churchwarden of the same parish for six successive periods of office until the annual meeting of the parishioners to elect churchwardens in the next year but one following the date on which that person vacated office at the end of the last such period:

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Provided that a meeting of the parishioners may by resolution decide that this section shall not apply in relation to the parish concerned.

Any such resolution may be revoked by a subsequent meeting of the parishioners.

4 Time and manner of choosing

- (1) The churchwardens of a parish shall be chosen annually not later than the 30th April in each year.
- (2) Subject to the provisions of this Measure the churchwardens of a parish shall be elected by a meeting of the parishioners.
- (3) Candidates for election at the meeting must be nominated and seconded in writing by persons entitled to attend the meeting and each nomination paper must include a statement, signed by the person nominated, to the effect that that person is willing to serve as a churchwarden and is not disqualified under section 2(1), [F1(1A)] (2) or (3) above.
- (4) A nomination shall not be valid unless—
 - a) the nomination paper is received by the minister of the parish before the commencement of the meeting; and
 - b) in the case of a person who is not qualified by virtue of section 1(3)(a), (b) or (c) above, the bishop's permission was given under section 1(4) above before the nomination paper is received by the minister of the parish.
- (5) If it appears to the minister of the parish that the election of any particular person nominated might give rise to serious difficulties between the minister and that person in the carrying out of their respective functions the minister may, before the election is conducted, make a statement to the effect that only one churchwarden is to be elected by the meeting. In that event one churchwarden shall be appointed by the minister from among the persons nominated, the name of the person so appointed being announced before the election is conducted, and the other shall then be elected by the meeting.
- (6) During any period when there is no minister—
 - a) subsection (4) above shall apply with the substitution for the words "minister of the parish" of the words "churchwarden by whom the notice convening the meeting was signed"; and
 - b) subsection (5) above shall not apply.
- (7) A person may be chosen to fill a casual vacancy among the churchwardens at any time.
- (8) Any person chosen to fill a casual vacancy shall be chosen in the same manner as was the churchwarden whose place he is to fill except that, where the churchwarden concerned was appointed by the minister and the minister has ceased to hold office, the new churchwarden to fill the casual vacancy shall be elected by a meeting of the parishioners.

Amendments (Textual)

F1Word in s. 4(3) inserted (1.1.2017) by Safeguarding and Clergy Discipline Measure 2016 (No. 1), ss. 2(4), 12(3); S.I. 2016/1213, art. 2

5 Meeting of the parishioners

- (1) A joint meeting of—
 - (a) the persons whose names are entered on the church electoral roll of the parish; and
 - (b) the persons resident in the parish whose names are entered on a register of local government electors by reason of such residence,

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shall be deemed to be a meeting of the parishioners for the purposes of this Measure.

(2) The meeting of the parishioners shall be convened by the minister or, during any period when there is no minister or when the minister is unable or unwilling to do so, the churchwardens of the parish by a notice signed by the minister or a churchwarden as the case may be.

(3) The notice shall state the place, day and hour at which the meeting of the parishioners is to be held.

(4) The notice shall be affixed on or near to the principal door of the parish church and of every other building licensed for public worship in the parish for a period including the last two Sundays before the meeting.

(5) The minister, if present, or, if he is not present, a chairman chosen by the meeting of the parishioners, shall preside thereat.

(6) In case of an equal division of votes on any question other than one to determine an election of a churchwarden the chairman of the meeting of parishioners shall not have a second or casting vote and the motion on that question shall be treated as lost.

[^{F1}(7) The Church Representation Rules contained in Schedule 3 to the Synodical Government Measure 1969 (No. 1) may provide for the procedure to be followed at a meeting of the parishioners for the purposes of this Measure and, subject to any provision in the Rules, the meeting has power to adjourn and to determine its own rules of procedure.]

(8) A person appointed by the meeting of the parishioners shall act as clerk of the meeting and shall record the minutes thereof.

Amendments (Textual)

F1S. 5(7) substituted (19.5.2014) by Church of England (Miscellaneous Provisions) Measure 2014 (No. 1), s. 21(2), Sch. 2 para. 15; S.I. 2014/1369, art. 2

6 Admission

(1) At a time and place to be appointed by the bishop annually, being on a date not later than 31st July in each year, each person chosen for the office of churchwarden shall appear before the bishop or his substitute duly appointed, and be admitted to the office of churchwarden after—

- a) making a declaration, in the presence of the bishop or his substitute, that he will faithfully and diligently perform the duties of his office; and
- b) subscribing a declaration to that effect and also that he is not disqualified under section 2(1), [F1(1A),] (2) or (3) above.

No person chosen for the office of churchwarden shall become churchwarden until such time as he shall have been admitted to office in accordance with the provisions of this section.

(2) Subject to the provisions of this Measure the term of office of the churchwardens so chosen and admitted as aforesaid shall continue until a date determined as follows, that is to say—

- a) in the case of a person who is chosen again as churchwarden at the next annual meeting of the parishioners—
 - (i) if so admitted for the next term of office by 31st July in the year in question, the date of the admission; or
 - (ii) if not so admitted for the next term of office by 31st July in the year in question, that date;

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- b) in the case of a person who is not chosen again as churchwarden at the next annual meeting of the parishioners—
 - (i) if that person's successor in office is so admitted for the next term of office by 31st July in the year in question, the date of the admission; or
 - (ii) if that person's successor in office is not so admitted for the next term of office by 31st July in the year in question, that date.

In the application of paragraph (b) above to any person, where there is doubt as to which of the new churchwardens is that person's successor in office the bishop may designate one of the new churchwardens as that person's successor for the purposes of that paragraph.

(3) Where any person ceases to hold the office of churchwarden at the end of July in any year by virtue of paragraph (a)(ii) or (b)(ii) above a casual vacancy in that office shall be deemed to have arisen.

(4) In relation to the filling of a casual vacancy the reference in subsection (1) above to the 31st July shall be construed as a reference to a date three months after the person who is to fill the vacancy is chosen or the date of the next annual meeting of the parishioners to elect churchwardens, whichever is the earlier.

Amendments (Textual)

F1Word in s. 6(1)(b) inserted (1.1.2017) by Safeguarding and Clergy Discipline Measure 2016 (No. 1), ss. 2(5), 12(3); S.I. 2016/1213, art. 2

[^{F1}6A Suspension

(1) This section applies where—

- (a) a churchwarden is arrested on suspicion of committing an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933 or is charged with such an offence without being arrested, or
- (b) the bishop is satisfied, on the basis of information provided by a local authority or the police, that a churchwarden presents a significant risk of harm.

(2) The bishop may suspend the person from the office of churchwarden by serving written notice on the person; and the notice must specify the bishop's reasons for imposing the suspension.

(3) The bishop may at any time revoke a suspension under this section by serving written notice on the person.

(4) For the purposes of subsection (1)(b), a person presents a significant risk of harm if there is a significant risk that the person may—

- (a) harm a child or vulnerable adult,
- (b) cause a child or vulnerable adult to be harmed,
- (c) put a child or vulnerable adult at risk of harm,
- (d) attempt to harm a child or vulnerable adult, or
- (e) incite another person to harm a child or vulnerable adult.

(5) Before suspending a person in reliance on subsection (1)(b) or revoking a suspension made in reliance on subsection (1)(b), the bishop must consult—

- (a) the diocesan safeguarding advisor, and

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(b) such other persons as the bishop considers appropriate.

(6) Where, in reliance on subsection (1)(a), a notice of suspension is served under subsection (2) and the suspension has not been revoked under subsection (3), the suspension continues until the earlier of—

(a) the expiry of three months beginning with the day on which the notice is served, and

(b) the conclusion of the matter.

(7) If, in the case of a suspension made in reliance on subsection (1)(a), the matter is not concluded before the expiry of the period referred to in subsection (6)(a), a further notice of suspension under subsection (2) may be served on the person; and subsection (6) and this subsection apply to the further suspension as they applied to the earlier suspension or suspensions.

(8) Where, in reliance on subsection (1)(b), a notice of suspension is served under subsection (2) and the suspension has not been revoked under subsection (3), the suspension continues until the expiry of three months beginning with the day on which the notice is served.

(9) In the case of a suspension made in reliance on subsection (1)(b), a further notice of suspension under subsection (2) may be served on the person; and subsection (8) and this subsection apply to the further suspension as they applied to the earlier suspension or suspensions.

(10) Having served a notice of suspension or revocation under this section, the bishop shall give each of the following written notification—

(a) the archdeacon of each archdeaconry in the diocese,

(b) the rural dean or the area dean of the deanery in which the parish in question is situated,

(c) the clergy who hold office in the parish,

(d) the other churchwarden or churchwardens of the parish,

(e) each suffragan bishop of the diocese,

(f) the registrar of the diocese,

(g) the diocesan safeguarding advisor, and

(h) such other persons as the bishop considers appropriate.

(11) The registrar shall file the notification given under subsection (10)(f) in the diocesan registry.

(12) For the purposes of this section, a matter is concluded when—

(a) a decision is taken not to charge the person with the offence in question, or

(b) where the person is charged with the offence, the proceedings for the offence are concluded.

(13) In this section—

“child” means a person aged under 18;

“vulnerable adult” has the same meaning as in the Safeguarding and Clergy Discipline Measure 2016.]

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[^{F1}6B Appeal against suspension under section 6A

(1) A person on whom a notice of suspension is served under section 6A(2) may appeal against the suspension to the president of tribunals.

(2) On an appeal under this section, the president of tribunals may, within 28 days following the lodging of the appeal, either confirm or revoke the suspension.]

Amendments (Textual)

F1S. 6A, 6B inserted (1.1.2017) by Safeguarding and Clergy Discipline Measure 2016 (No. 1), ss. 2(6), 12(3); S.I. 2016/1213, art. 2

7 Resignation

(1) A person may resign the office of churchwarden in accordance with the following provisions of this section, but not otherwise.

(2) Written notice of intention to resign shall be served on the bishop by post.

(3) The resignation shall have effect and the office shall be vacated—

- a) at the end of the period of two months following service of the notice on the bishop; or
- b) on such earlier date as may be determined by the bishop after consultation with the minister and any other churchwarden of the parish.

8 Vacation of office

(1) The office of churchwarden of a parish shall be vacated if—

- a) the name of the person concerned is removed from the church electoral roll of the parish under rule 1 of the Church Representation Rules; or
- b) the name of the person concerned is not on a new church electoral roll of the parish prepared under rule 2(4) of those Rules; or
- c) the churchwarden becomes disqualified under section 2(1), [^{F1}(1A),] (2) or (3) above.

[^{F2}(1A) Where the office of churchwarden is vacated under subsection (1)(c) on a person being disqualified under section 2(2)(a), the person may resume the office if the disqualification is waived under section 2(3A) and if the office has remained vacant.]

(2) For the purposes of this section a person who has been chosen for the office of churchwarden but has not yet been admitted to that office shall be deemed to hold that office, and the expressions “office” and “churchwarden” shall be construed accordingly.

Amendments (Textual)

F1Word in s. 8(1)(c) inserted (1.1.2017) by Safeguarding and Clergy Discipline Measure 2016 (No. 1), ss. 2(7), 12(3); S.I. 2016/1213, art. 2

F2S. 8(1A) inserted (1.1.2017) by Safeguarding and Clergy Discipline Measure 2016 (No. 1), ss. 2(8), 12(3); S.I. 2016/1213, art. 2

9 Guild Churches

(1) In the case of every church in the City of London designated and established as a Guild Church under the City of London (Guild Churches) Acts 1952 and 1960 the churchwardens shall, notwithstanding anything to the contrary contained in those Acts, be actual communicant members of the Church of England except where the bishop shall otherwise permit.

(2) Subject to subsection (1) above, nothing in this Measure shall apply to the churchwardens of any church designated and established as a Guild Church under the City of London (Guild Churches) Acts 1952 and 1960.

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(3) In this section “actual communicant member of the Church of England” means a member of the Church of England who is confirmed or ready and desirous of being confirmed and has received Communion according to the use of the Church of England or of a church in communion with the Church of England at least three times during the twelve months preceding the date of his election or appointment.

10 Special provisions

(1) In the carrying out of the provisions of this Measure the bishop shall have power —

- a) to make provision for any matter not herein provided for;
- b) to appoint a person to do any act in respect of which there has been any neglect or default on the part of any person or body charged with any duty under this Measure;
- c) so far as may be necessary for the purpose of giving effect to the intentions of this Measure, to extend or alter the time for holding any meeting or election or to modify the procedure laid down by this Measure in connection therewith;
- d) in any case in which there has been no valid choice to direct a fresh choice to be made, and to give such directions in connection therewith as he may think necessary; and
- e) in any case in which any difficulty arises, to give any directions which he may consider expedient for the purpose of removing the difficulty.

(2) The powers of the bishop under this section shall not enable him to validate anything that was invalid at the time it was done.

11 Savings

(1) Subject to section 9 above, nothing in this Measure shall be deemed to amend, repeal or affect any local act or any scheme made under any enactment affecting the churchwardens of a parish:

Provided that for the purposes of this Measure the Parish of Manchester Division Act 1850 (13 & 14 Vict. c. 41) shall be deemed to be a general act.

(2) Subject to section 12 below, in the case of any parish where there is an existing custom which regulates the number of churchwardens or the manner in which the churchwardens are chosen, nothing in this Measure shall affect that custom:

Provided that in the case of any parish where in accordance with that custom any churchwarden was, before the coming into force of the Churchwardens (Appointment and Resignation) Measure 1964 (No. 3) chosen by the vestry of that parish jointly with any other person or persons that churchwarden shall be chosen by the meeting of the parishioners jointly with the other person or persons.

12 Abolition of existing customs

(1) A meeting of the parishioners of a parish may pass a resolution abolishing any existing custom which regulates the number of churchwardens of the parish or the manner in which the churchwardens of the parish are chosen.

(2) Where any such resolution is passed the existing custom to which it relates shall cease to have effect on the date on which the next meeting of parishioners by which the churchwardens are to be elected is held.

(3) In the case of an existing custom which involves a person other than the minister in the choice of the churchwardens, a resolution under subsection (1) above shall not be passed without the written consent of that person.

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13 Interpretation

(1) In this Measure, except in so far as the context otherwise requires—

“bishop” means the diocesan bishop concerned;

[^{F1}“diocesan safeguarding advisor” means the person appointed as such for the diocese in question in accordance with provision made by Canon;]

“existing custom” means a custom existing at the coming into force of this Measure which has continued for a period commencing before 1st January 1925;

“minister” has the same meaning as that assigned to that expression in rule 54(1) of the Church Representation Rules except that, where a special responsibility for pastoral care in respect of the parish in question has been assigned to a member of the team in a team ministry under section 20(8A) of the Pastoral Measure 1983 (1983 No. 1) but a special cure of souls in respect of the parish has not been assigned to a vicar in the team ministry by a scheme under that Measure or by his licence from the bishop, it means that member;

“pastoral scheme” has the same meaning as that assigned to that expression in section 87(1) of the Pastoral Measure 1983;

“actual communicant”, “parish” and “public worship” have the same meanings respectively as those assigned to those expressions in rule 54(1) of the Church Representation Rules.

[^{F2}(1A) A reference in this Measure to an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933 is a reference to an offence which is—

- a) mentioned in that Schedule as amended, extended or applied from time to time, or
- b) treated by an enactment (whenever passed or made) as if it were mentioned in that Schedule.]

(2) Where by virtue of any custom existing at the coming into force of the Churchwardens (Appointment and Resignation) Measure 1964 (1964 No. 3) the choice of a churchwarden was, under section 12(2) of that Measure, required to be made by the meeting of the parishioners jointly with another person or persons that custom shall be deemed to be an existing custom for the purposes of this Measure.

Amendments (Textual)

F1Words in s. 13(1) inserted (1.1.2017) by Safeguarding and Clergy Discipline Measure 2016 (No. 1), ss. 2(9), 12(3); S.I. 2016/1213, art. 2

F2S. 13(1A) inserted (1.1.2017) by Safeguarding and Clergy Discipline Measure 2016 (No. 1), ss. 2(10), 12(3); S.I. 2016/1213, art. 2

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15 Consequential amendment and repeals

(1) The enactment mentioned in Schedule 2 to this Measure shall have effect subject to the consequential amendment specified in that Schedule.

(2) The enactments mentioned in Schedule 3 to this Measure are hereby repealed to the extent specified in the third column of that Schedule.

16 Short title, commencement and extent

(1) This Measure may be cited as the Churchwardens Measure 2001.

(2) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint, and different days may be appointed for different provisions.

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(3) This Measure shall extend to the whole of the Provinces of Canterbury and York except the Channel Islands and the Isle of Man, but the provisions thereof 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 if an Act of Tynwald or an instrument made in pursuance of an Act of Tynwald so provides, shall extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument.

Subordinate Legislation Made

P1s. 16(2) power exercised by Instrument dated 13.11.2001 made by the Archbishops of Canterbury and York

Schedule 1

Associated Amendments (Textual)

F1Sch. 1 repealed (1.7.2018) by Statute Law (Repeals) Measure 2018 (No. 1), s. 2(3), Sch. Pt. 5; S.I. 2018/718, art. 2
