

Bill No 2**Explanatory Memorandum**

Section 34 of Chapter IV of the Constitution of the Church of Ireland currently provides for circumstances where a member of the clergy is unable to fulfil the duties of his or her office due to “permanent mental infirmity”. Section 34 currently provides for a mechanism whereby the bishop notifies such infirmity to the Court of the General Synod. The Court is empowered to make a judgment on the permanent mental infirmity of the member of the clergy which said judgment has the same effect as if the member of the clergy had resigned from office. Prior to the bishop notifying the Court of the General Synod, the bishop must be satisfied that adequate provision can be made for the future maintenance of the member of the clergy.

This Bill seeks to modernise and extend the provisions of the existing section 34 by providing that any decision made in relation to the medical incapacity of a member of the clergy is based on medical evidence and by extending the current provisions to allow for permanent physical as well as mental incapacity. The role of the Court of the General Synod is retained as an appeal body as it is considered that, where there is disputed medical evidence, it will be a matter for legal consideration.

As set out above, section 34(1) seeks to extend the current provisions of Section 34 to include permanent physical incapacity as well as permanent mental incapacity. The duty to ensure that adequate provision can be made for the future maintenance of the member of the clergy who is incapacitated on medical grounds is retained. The decision making body will be a panel (the “Church Panel”) which shall consist of the Chief Officer and Secretary of the Representative Church Body, an Honorary Secretary of the General Synod and an Archbishop or Bishop. The Church Panel shall be advised by a group of medical experts (the “Medical Panel”).

Section 34(2) seeks to briefly outline the procedures to be adopted before the Church Panel and it is considered that detailed procedures will be the subject matter of Rules to be adopted in accordance with section 34(5). This sub-section also outlines the effect of a decision of the Church Panel and it should be noted that the effect of the decision is the same as currently exists under section 34.

Section 34(3) seeks to provide for circumstances whereby the member of the clergy in question considers that he or she is no longer permanently incapacitated on medical grounds from the due performance of the duties of office and the member of the clergy wishes to seek appointment to an office. This sub-section sets out the procedure which would enable the member of the clergy to proceed to take up an office where that person secures such appointment.

Section 34(4) seeks to provide for circumstances whereby the Church considers that the member of the clergy is no longer permanently incapacitated on medical grounds from the due performance of the duties of office. As set out above, prior to invoking the provisions of section 34, the bishop must be satisfied that adequate provision can be made for the future maintenance

of the member of the clergy. It is considered that this duty exists during such period of incapacity. In circumstances whereby a member of the clergy is no longer permanently incapacitated on medical grounds, perhaps due to the advancement of medical technology, the Church retains the option of reviewing the benefits being provided to the member of the clergy. Such benefits may be withdrawn if it is considered that the member of the clergy is capable of carrying out the duties of office.

Section 34(5) provides that rules for the carrying into effect of the revised Section 34 may be framed from time to time by the Standing Committee of the General Synod.

THE BISHOP OF DERRY AND RAPHOE
MR KEVIN BOWERS

(At the Request of the Standing Committee and the Representative Church Body)

BILL

To amend Chapter IV of the Constitution

WHEREAS it is desirable to extend the provisions of Chapter IV of the Constitution in relation to the permanent incapacity of members of the clergy on medical grounds;

BE IT ENACTED by the Archbishops and Bishops and the Clergy and Laity of the Church of Ireland in General Synod assembled in Armagh in the year 2015, and by the authority of the same, as follows:-

1. In this Statute “Chapter IV” means Chapter IV of the Constitution of the Church of Ireland.

2. For section 34 of Chapter IV there shall be substituted:

“34. (1) If in the case of a member of the clergy holding office in any diocese it shall appear to the bishop, upon such evidence as the bishop may deem sufficient, that such person may be permanently incapacitated on medical grounds from the due performance of the duties of office and also that adequate provision can be made for the future maintenance of such person, the bishop may certify the same to a panel (the “Church Panel”) duly appointed to consist of (i) the Chief Officer and Secretary of the Representative Church Body, (ii) an honorary secretary of the General Synod chosen by the said honorary secretaries from within their number and (iii) an archbishop or bishop chosen by the archbishops and bishops from within their number. Following appointment, the Church Panel shall convene a medical panel (the “Medical Panel”) to consist of not less than three medical experts and the member of the clergy shall attend before members of the Medical Panel on such occasions as the Medical Panel may require. The member of the clergy shall be entitled to provide medical evidence to the Church Panel which shall be duly considered.

(2) If, upon due enquiry and as evidenced by reports of at least two members of the Medical Panel, it is established to the reasonable satisfaction of the Church Panel that the member of the clergy is permanently incapacitated on medical grounds from the due performance of the duties of office, the Church Panel may make a decision (the “Decision to Vacate”). The Decision to Vacate shall have the same effect as if such person had notified an intention to resign and the same proceedings may be taken for the purpose of vacating the office of the said person and for the purpose of providing, in cases where arrangements can be made, for a retiring annuity. The member of the clergy, the subject matter of the Decision to Vacate, may appeal the said decision to

the Court of the General Synod. In circumstances where the Church Panel does not proceed to make a Decision to Vacate and if it is claimed that the capacity of the member of the clergy has subsequently changed, nothing in this section shall preclude a further application being made to the Church Panel.

- (3) If it is claimed that the capacity of a member of the clergy the subject of a Decision to Vacate has subsequently changed and that person desires to be eligible to seek appointment to office in any diocese, that person may notify the bishop of the diocese in which the person is then resident. The bishop shall request that the Church Panel be convened and upon due enquiry and as evidenced by reports of at least two members of a Medical Panel convened by the Church Panel, it is established to the reasonable satisfaction of the Church Panel that the said person is no longer permanently incapacitated on medical grounds from the due performance of the duties of office, the Church Panel may make a determination that (a) the person is entitled to seek appointment to office and (b) where the person secures an appointment to office which he/she wishes to take up, the Church Panel shall, in return for the person renouncing his/her entitlement to further payments and other benefits under the Decision to Vacate, set aside the Decision to Vacate to enable such appointment to proceed. The member of the clergy shall be entitled to provide medical evidence to the Church Panel which shall be duly considered.
- (4) If it is claimed that the capacity of a member of the clergy subject to a Decision to Vacate has subsequently changed and it shall appear to the reasonable satisfaction of the Church Panel, upon due enquiry and as evidenced by reports of at least two members of a Medical Panel, that the said person is no longer permanently incapacitated on medical grounds from the due performance of the duties of office, any payments or other benefits, other than a retiring annuity, paid to the said person under the Decision to Vacate shall be reviewed and may be withdrawn. The member of the clergy shall be entitled to provide medical evidence to the Church Panel which shall be duly considered.
- (5) Rules for carrying this section into effect may be framed from time to time by the Standing Committee of the General Synod.”