



# Pastoral Measure 1983 (repealed)

1983 No. 1

## PART III

### REDUNDANT CHURCHES

*Appointment of statutory bodies for purposes relating to redundant churches*

#### **41 Appointment of Advisory Board for Redundant Churches.**

- (1) There shall be a Board, to be called the Advisory Board for Redundant Churches, consisting of a chairman and not less than six nor more than ten other members, and the chairman and other members shall be appointed by the Archbishops of Canterbury and York jointly after consultation with the Prime Minister.
- (2) The provisions of paragraphs 1 to 4 of Schedule 5 shall apply to the constitution and procedure of the said Board.
- (3) The functions of the said Board shall be to give information and advice to the Commissioners about—
  - (a) the historic and archaeological interest and architectural quality of any church or part of a church to which this subsection applies;
  - (b) the historic and archaeological interest and aesthetic qualities of the contents of such a church or part;
  - (c) the value of such a church or part as part of the landscape; and
  - (d) the overall importance of such a church or part.
- (4) Subsection (3) applies to a church or part of a church as respects which the question arises whether it ought to be declared redundant, or as respects which questions arise as to its use, demolition or preservation on or in the event of its being declared redundant, and references in this subsection to a church shall be construed as including references to its curtilage and to any churchyard or burial ground annexed thereto.
- (5) The Commissioners may make grants out of their general fund in respect of the expenses of the said Board.

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- (6) The said Board shall have power to appoint a secretary and such other officers and agents as they consider necessary for the proper discharge of their functions, subject to the approval of the Commissioners as respects number and the terms of service or appointment.
- (7) Before giving advice on the question whether any such church or part of a church as aforesaid ought to be preserved, the said Board shall consult the Redundant Churches Fund established under the following provisions of this Part as to the estimated cost of repairing that church or part immediately and maintaining it thereafter and as to the money available for those purposes.
- (8) The said Board shall, as soon as possible after the end of each calendar year, make a report of their proceedings during that year to the Archbishops of Canterbury and York, and copies of the report shall be sent to the Commissioners and laid before the General Synod.

#### **42 Appointment of diocesan redundant churches uses committees.**

- (1) Subject as hereinafter provided there shall be constituted a committee for every diocese, to be called the diocesan redundant churches uses committee of the diocese concerned.
- (2) Paragraphs 5 to 12 of Schedule 5 shall apply to the constitution and procedure of the said committee.
- (3) The only duty of the said committee shall be to make every endeavour to find suitable alternative uses for redundant buildings in their diocese.
- (4) A diocesan redundant churches uses committee shall, when it has found a suitable use or suitable uses for a redundant building or has reached the conclusion that no such use will be found, make a report to the Commissioners; and the Commissioners may at any time require any such committee to make a report to them in respect of a particular redundant building.
- (5) Every diocesan redundant churches uses committee shall make to the Commissioners not later than the 31st March in each year a report of their proceedings in the preceding calendar year.
- (6) The Commissioners may, in the case of a particular redundant building, require the diocesan redundant churches uses committee to refer the case to them, and thereupon the duty of making every endeavour to find a suitable use or suitable uses for that building shall be discharged by the Commissioners instead of the said committee, but the Commissioners shall consult with the said committee in discharging that duty.
- (7) If it appears to the bishop at the commencement of this Measure or at any time subsequently that there are not likely to be any redundant buildings in his diocese in the near future, he may postpone the constitution of the diocesan redundant churches uses committee for his diocese or, as the case may be, may suspend the proceedings of the committee, until such time as it appears to him that the committee is needed, and, in the case of a suspension, the bishop may then direct that a new committee be constituted, whether or not the period of office of the members of the old committee has expired during the suspension.

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#### **43 Commissioners to appoint Committee with duties in respect of redundant churches.**

- (1) The Board of Governors of the Commissioners shall appoint a Committee of the Board for the purpose of exercising on behalf of the Commissioners such functions as the Board may assign them in relation to redundant buildings and the preparation of redundancy schemes, including functions under section 42; Commissioners shall constitute a majority of the members of the Committee but, subject to that, the Committee may include persons who are not Commissioners.
- (2) The <sup>M1</sup>Church Commissioners Measure 1947 shall apply to the Committee appointed under this section as it applies to other committees of the Board, and the Commissioners may pay a salary to one of the members of the Committee.

#### **Marginal Citations**

**M1** 1947 No. 2.

#### **44 Appointment of Redundant Churches Fund.**

- (1) There shall be a body corporate, to be called the Redundant Churches Fund, with perpetual succession and a common seal.
- (2) The Redundant Churches Fund shall consist of a chairman and not less than four nor more than six other members, and the chairman and other members shall be appointed by Her Majesty, and before any such appointment the advice of the Archbishops of Canterbury and York shall be submitted to Her Majesty through the Prime Minister.
- (3) Paragraphs 13 to 15 of Schedule 5 shall apply to the constitution and procedure of the Redundant Church Fund.
- (4) The Redundant Churches Fund shall have as its object the preservation, in the interests of the nation and the Church of England, of churches and parts of churches of historic and archaeological interest or architectural quality vested in the Fund by this Part, together with their contents so vested.
- (5) The Redundant Churches Fund shall have power—
  - (a) to hold and manage all churches and parts of churches and other property vested in the Fund by this Part and, in particular, to carry out all necessary works of maintenance and repair in respect of that property;
  - (b) to permit the occasional use of property, or to grant a licence permitting the temporary use of property, vested in the Fund for purposes considered by the Fund to be suitable and, in any case, either without charge or on payment of a fee;
  - (c) to charge entrance fees for admission to any such property, to raise money by public subscription and appeals, and to accept gifts and bequests either for the general purposes of the Fund or on specific trusts for purposes falling within the general purposes;
  - (d) to administer all sums coming into its hands and to invest as hereinafter provided any sums not immediately required for the purposes of the Fund;
  - (e) to appoint a secretary and such other officers and agents as the Fund considers necessary for the proper discharge of its duties;
  - (f) to delegate functions to local trustees or bodies.

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- (6) The powers to invest any such sums as aforesaid shall be those conferred by the general law on trustees of trust funds, and shall also include power to invest in accordance with the scheme scheduled to the <sup>M2</sup>Church Funds Investment Measure 1958, as if the sums were funds to which that Measure applied.
- (7) The power of the Redundant Churches Fund to permit the occasional use of property vested in the Fund shall include power to permit such occasional worship (including worship by persons belonging to other Christian Churches) in a church or part of a church vested in the Fund as may be authorised by the bishop after consulting the incumbent or priest in charge of the benefice in the area of which the property is situated.
- (8) The Redundant Churches Fund may contribute to the cost of the care and maintenance of a church or part of a church vested in a diocesan board of finance under this Part pending the making or coming into operation of arrangements under a redundancy scheme.
- (9) All expenditure of the Redundant Churches Fund shall be defrayed out of the sums in its hands, and the Fund shall keep the Advisory Board and the Commissioners informed of its financial position.
- (10) The Commissioners may make grants out of their general fund in respect of the expenditure of the Redundant Churches Fund:
- Provided that the total amount of the grants made in any five year period (calculated in accordance with section 52(2)) shall not exceed the figure determined in respect of that period in accordance with section 53.
- (11) The Redundant Churches Fund shall, as soon as possible after the end of each calendar year, transmit a copy of its accounts for that year and a report on its proceedings during that year to the Commissioners and to the Advisory Board.
- (12) The Commissioners shall transmit copies of the said accounts and report to the Secretary of State for the Home Department and the Secretary General of the General Synod and the Secretary of State shall lay copies thereof before both Houses of Parliament and the Secretary General of the General Synod shall lay copies thereof before the General Synod.

#### Marginal Citations

M2 1958 No. 1

#### 45 Power to establish new body to replace the Advisory Board and the Redundant Churches Fund

- (1) The Standing Committee of the General Synod may make an order—
- (a) establishing a body corporate by such name as may be specified in the order and constituting the body in accordance with subsection (3);
  - (b) making such other provision with respect to the constitution, and such provision with respect to the finances, staff and procedure, of that body, as the Standing Committee considers expedient;
  - (c) transferring to that body all functions, property, rights and liabilities which immediately before the order comes into operation are functions, property,

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- rights and liabilities of the Advisory Board for Redundant Churches or the Redundant Churches Fund;
- (d) dissolving the said Board and the said Fund on the day on which the order comes into operation; and
- (e) making such modifications of the provisions of any enactment relating to the said Board or the said Fund as the Standing Committee considers are appropriate in consequence of the dissolution.
- (2) Before making an order under this section the Standing Committee shall consult the Prime Minister, the Secretary of State, the Archbishops of Canterbury and York, the Commissioners, the Advisory Board for Redundant Churches and the Redundant Churches Fund.
- (3) The body to be established by an order under this section shall consist of a chairman and such number of other members as may be specified in the order.
- (4) The chairman of the body established by an order under this section and one half of the other members shall be appointed by Her Majesty on the advice of the Prime Minister given after consultation with the Archbishops of Canterbury and York, and the remaining members shall be appointed by the said Archbishops acting jointly after consultation with the Prime Minister; but no Commissioner, no member of a committee constituted by or under the <sup>M3</sup>Church Commissioners Measure 1947 or appointed by the Board of Governors of the Commissioners and no member of the Standing Committee of the General Synod shall be eligible for appointment as the chairman or a member of that body.
- (5) An order under this section may empower the body established by the order to pay out of its resources a salary to one of its members.
- (6) An order under this section may be varied by a subsequent order thereunder.
- (7) Every order under this section shall be laid before the General Synod and shall not come into operation unless and until it has been approved by the General Synod and by resolution of each House of Parliament.
- (8) The <sup>M4</sup>Statutory Instruments Act 1946 shall apply to any order approved by the General Synod under subsection (7) as if it were a statutory instrument and were made when so approved.

**Modifications etc. (not altering text)**

- C1** S. 45(1)(2)(4): Functions of Standing Committee transferred (1.1.1999) to Archbishops' Council by S.I. 1998/1715, arts. 1(2)(4), 2, **Sch. 1**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York.

**Marginal Citations**

- M3** 1947 No. 2.  
**M4** 1946 c. 36.

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*Redundancy provisions in pastoral schemes*

**46 Provision by pastoral scheme for appropriation or demolition of redundant church to be replaced by new church.**

- (1) Where the Commissioners are satisfied that a new church or place of worship is to be provided in the area of a benefice to take the place of a church or churches in that area which should thereupon be declared redundant, then, if any one of the four conditions set out in subsections (3) to (6) is fulfilled as respects the church or any of the churches to be declared redundant, a pastoral scheme which makes a declaration of redundancy in respect of that church may further provide—
  - (a) for the appropriation of the redundant building in accordance with section 51(1)(a) or for its demolition, and for any of the matters mentioned in section 51(2), (3) or (4);
  - (b) for the payment to the Commissioners of the proceeds of any sale or exchange of the building or the site thereof, or any part of the building or site, with or without any land annexed or belonging thereto, and the premiums on any lease or licence of the building or site or any part of the building or site with or without any such land; and
  - (c) subject to subsection (8), for the application of the net proceeds and net premiums to defray the cost of providing the new church or place of worship aforesaid and, if the whole amount thereof is not required for that purpose, for the payment of two-thirds of the balance to the diocesan pastoral account and for the application by the Commissioners of the remaining one-third in accordance with section 52.
- (2) A pastoral scheme which provides for the demolition of a redundant building may provide for its demolition by the diocesan board of finance, and in that case subsection (1)(a) shall have effect as if the reference therein to section 51(4) were a reference to that subsection modified by substituting for the words “the Commissioners”, wherever occurring, the words “the diocesan board of finance.”
- (3) The first condition referred to in subsection (1) is that the Commissioners have been advised by the Advisory Board that the Board are satisfied that the church to be declared redundant is of such small historic and archaeological interest, or has such little architectural quality, or requires such extensive structural repair, that the demolition of that church would not in their opinion be objectionable on any or all of those grounds.
- (4) The second such condition is that the Commissioners have been advised by the Advisory Board that the Board are satisfied with a proposal to preserve features of historic interest or architectural quality of the church to be declared redundant by incorporating them in the new church or place of worship or some other building.
- (5) The third such condition is that the Commissioners, having considered the advice given by the Advisory Board and notwithstanding that advice, are satisfied that for reasons regarded by them as sufficient the demolition of the church to be declared redundant should be authorised.
- (6) The fourth such condition is that the Commissioners, having considered the advice given by the Advisory Board, are satisfied that a suitable use or uses will be available for the church to be declared redundant when the declaration takes effect.

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- (7) Where a pastoral scheme makes such provision as is mentioned in subsection (1), the declaration of redundancy shall not take effect until the new church or place of worship is provided unless the Commissioners are satisfied that, if the church or any of the churches to be replaced is disposed of or demolished before such provision, a suitable building will be available in the interim period, not necessarily in the same parish, for use in place of that church.
- (8) Where before a declaration of redundancy is made by a pastoral scheme under this section in respect of a church which was the subject of a sharing agreement under the <sup>M5</sup>Sharing of Church Buildings Act 1969 and which on the termination of the agreement was vested in an incumbent by section 9(3) of that Act, any contribution in the nature of capital made in accordance with the agreement by any party thereto, other than a party acting on behalf of the Church of England, or so much thereof as the Commissioners may determine, may be repaid to that party by the Commissioners out of the proceeds of any sale or exchange, or the premiums on any lease or licence, of that church, any part of that church or the site thereof before the net proceeds or net premiums, as the case may be, are applied in accordance with subsection (1)(c).
- (9) References in this section to the provision of a new place of worship shall be construed as including references to the provision of such a place by adapting, improving or repairing an existing building.
- (10) In this section “place of worship” means a building licensed by the bishop for public worship in accordance with the rites and ceremonies of the Church of England, being a building used wholly for the purposes of such worship and purposes ancillary thereto, or partly for those purposes and partly for other ecclesiastical purposes of the parish or purposes ancillary thereto, and includes a building which, pursuant to an agreement under the <sup>M6</sup>Sharing of Church Buildings Act 1969, is to be used as a place of worship jointly with another church and is to be owned by the Church of England only or to be jointly owned by that Church and any other Church.

#### Marginal Citations

**M5** 1969 c. 38.

**M6** 1969 c. 38.

#### 47 Other provision by pastoral scheme for redundant church.

- (1) Where a pastoral scheme makes a declaration of redundancy in respect of any church or part of a church, not being a case to which section 46 applies, and the Commissioners are satisfied that a suitable use or uses will be available for the redundant building when the declaration takes effect, the pastoral scheme may provide for the appropriation of the redundant building to the said use or uses, and may make further provision for any of the matters mentioned in section 51(2) and section 51(5)-(11) shall apply.
- (2) Where a pastoral scheme makes a declaration of redundancy in respect of any church or part of a church and the Commissioners are satisfied that no suitable or appropriate alternative use will be available for the redundant building when the declaration takes effect, then, if it appears to the Commissioners after consultation with the Advisory Board that the building is of such historic and archaeological interest or architectural quality that it ought to be preserved in the interests of the nation and the Church of

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England, the scheme may provide for its care and maintenance by the Redundant Churches Fund.

- (3) Where a pastoral scheme provides for the care and maintenance of a redundant building or any part thereof by the said Fund, the scheme may also provide for the care and maintenance by the Fund of the whole or any part of the land annexed or belonging to the building or the church of which the building is part, and may so provide notwithstanding that the land is or has been used for burials.

**48 No other cases to be dealt with by pastoral scheme.**

Except in the cases specified in sections 46 and 47 and without prejudice to the provisions relating to the restoration of a redundant building to use as a church, no further provision beyond the declaration of redundancy itself shall be made by a pastoral scheme with respect to the redundant building, but such provision shall be made by the following provisions of this Part and schemes made and confirmed thereunder (in this Measure referred to as “redundancy schemes”).

*Redundancy schemes*

**49 Waiting period.**

- (1) Where a declaration of redundancy is made in a case to which neither section 46 nor section 47 applies, the redundant building, together with the contents thereof, shall, when the declaration takes effect, vest by virtue of this Measure, without any conveyance or other assurance, in the diocesan board of finance, and the Commissioners shall not prepare a redundancy scheme in respect of the redundant building for a period of at least six months thereafter:

Provided that—

- (i) if the Advisory Board certifies that the redundant building or any part thereof is of such small historic and archaeological interest or of such little architectural quality or requires such extensive structural repair that the demolition thereof would not in their opinion be objectionable on any or all of those grounds, the Commissioners may proceed forthwith with the making of a redundancy scheme providing for the demolition thereof and other matters mentioned in section 51(4);
  - (ii) if the Commissioners are satisfied that a suitable use or uses will be available for the redundant building before the expiration of the said period, they may proceed forthwith with the making of a redundancy scheme providing for the appropriation of the redundant building to such use or uses and for other matters mentioned in section 51(2).
- (2) During the period between the taking effect of a declaration of redundancy and the coming into operation of a redundancy scheme with respect to the redundant property—
- (a) the diocesan board of finance shall be responsible for the care and maintenance of the redundant building, so far as is reasonable in all the circumstances, and the safe keeping of its contents, whether in the building or elsewhere, and shall insure the said building and contents;



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- (b) the said board may without obtaining a faculty transfer the contents of the redundant building or any of them to some other place for safe keeping until the coming into operation of the scheme;
  - (c) the said board may with the consent of the bishop and of the incumbent or priest in charge of the benefice in the area of which the redundant building is situated permit the redundant building to be used occasionally for worship, including worship by persons belonging to other Christian Churches;
  - (d) the diocesan redundant churches uses committee or, as the case may be, the Commissioners shall make every endeavour to find a suitable use for the redundant building;
  - (e) while incurring no financial obligation, the incumbent or priest in charge and churchwardens of the parish in which the redundant building is situated shall give the diocesan board of finance every assistance in providing for reasonable supervision of the building against damage.
- (3) On a declaration of redundancy taking effect, any liability of a parochial church council or rector (including a lay rector) for the repair and maintenance of the redundant building and the safe keeping of its contents shall cease, and the <sup>M7</sup>Inspection of Churches Measure 1955 shall cease to apply to the redundant building.
- (4) Where the diocesan board of finance transfers any of the contents of the redundant building to some other place, the board shall serve a notice on the Commissioners, the Advisory Board, the Redundant Churches Fund and the registrar of the diocese informing them of the transfer and giving particulars of the contents transferred and the address of the place in question, and shall serve a similar notice on any incumbent, priest in charge, parochial church council or sequestrators concerned.

#### Marginal Citations

M7 1955 No. 1.

## 50 Procedure for making redundancy schemes.

- (1) The Commissioners may at any time after the expiration of the period of six months mentioned in section 49(1) or, in the cases mentioned in the proviso to that subsection, at any time after the conditions therein mentioned are fulfilled, and shall in any case not later than three years after the declaration of redundancy takes effect, prepare a draft scheme with respect to the redundant building providing for any of the matters mentioned in the next following section:

Provided that if before the end of the said period of three years it is found to be impracticable to prepare the draft scheme before that period expires, and it seems to the Commissioners after consulting the diocesan board of finance, reasonable so to do, they may, with the consent of the bishop, postpone the preparation of the draft scheme for such minimum further period or periods as they find to be necessary.

- (2) Before preparing any such draft scheme the Commissioners—
- (a) shall consult the bishop; and
  - (b) if it is proposed to provide for the demolition or the care and maintenance by the Redundant Churches Fund of the redundant building or any part thereof, or for any architectural or structural changes in the redundant building or any

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part thereof for the purpose of facilitating the use thereof, shall consult the Advisory Board:

Provided that if the said Board has advised that the demolition of the redundant building or part thereof would not in their opinion be objectionable, paragraph (b) of this subsection shall not apply in relation to that building or part, as the case may be.

- (3) The Commissioners shall serve a copy of the draft scheme on the diocesan board of finance, the local planning authority or authorities concerned, the Commonwealth War Graves Commission and the Advisory Board and, if the draft scheme provides for the care and maintenance by the Redundant Churches Fund of the redundant building or any part thereof, on that Fund.
- (4) The Commissioners shall also publish in one or more newspapers circulating in the locality in which the redundant building is situated a notice stating the effect of the draft scheme and naming a place or places where a copy thereof may be inspected, and stating that written representations with respect to the draft scheme may be made to the Commissioners not later than a date specified in the notice, being a date not less than twenty-eight days after the first publication of the notice in such a newspaper as aforesaid.
- (5) The Commissioners shall consider any representations duly made with respect to the draft scheme and any unforeseen change of circumstances affecting its implementation, and may decide not to proceed with it or to amend it or to proceed with it in its original form, and shall consult the bishop before making their decision.
- (6) If the Commissioners decide to proceed with the draft scheme, they shall seal a copy thereof, with such amendments (if any) as they may have made therein, and shall thereby make the scheme, and shall submit the scheme for confirmation by Her Majesty in Council, who may confirm the scheme by Order in Council.
- (7) If the Commissioners decide in accordance with subsection (5) not to proceed with a draft scheme, or to withdraw a scheme owing to an unforeseen change of circumstances before it has been confirmed by Order in Council, they shall as soon as possible prepare a new draft scheme, and subsections (2) to (6) shall apply thereto.
- (8) An Order in Council made under this section shall not be a statutory instrument as defined by section 1 of the <sup>M8</sup>Statutory Instruments Act 1946 and the provisions of that Act shall accordingly not apply thereto.
- (9) Sections 10 and 11 shall apply, with the necessary modifications, to schemes made and confirmed under this section as they apply to pastoral schemes, and a notice sufficiently identifying a scheme under this section and stating that it has been confirmed and where a copy of the Order in Council may be obtained shall be published in a newspaper circulating in the locality.

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**Marginal Citations**

**M8** 1946 c. 36.

## 51 Contents of redundancy schemes.

- (1) A redundancy scheme shall make the following provision for the redundant building, that is to say:—

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- (a) if a use or uses appearing to the Commissioners to be suitable have been found for the redundant building or any part thereof, the scheme may provide for appropriating the building or part to such use or uses, which shall be specified or generally described in the scheme;
  - (b) if such use or uses cannot be found for the building or a part thereof and it appears to the Commissioners, after consultation with the Advisory Board that the building or part is of such historic and archaeological interest or architectural quality that it ought to be preserved in the interests of the nation and the Church of England, the scheme may provide for its care and maintenance by the Redundant Churches Fund;
  - (c) if the building or any part thereof is not appropriated or provided for under paragraph (a) or (b) of this subsection the scheme may, with the consent of the diocesan board of finance, provide for the building or any part thereof to remain vested in that board and to be held by them on such terms as may be specified in the scheme;
  - (d) if the building or any part thereof is not appropriated or provided for under the foregoing paragraphs of this subsection, the scheme shall provide for its demolition.
- (2) Where a redundancy scheme provides for the appropriation of the redundant building or any part thereof to a use or uses specified or described in the scheme, the scheme may also provide—
- (a) for appropriating the whole or any part of the land annexed or belonging to the redundant building or the church of which it forms part, to a use or uses so specified or described;
  - (b) for empowering the diocesan board of finance themselves to use or hold the property concerned for the use or uses so specified or described or to let or license the property for such use or uses as aforesaid, or partly one and partly the other;
  - (c) for empowering the Commissioners, subject to any conditions prescribed by the scheme, to sell, give or exchange the property concerned or any part of it for such use or uses as aforesaid.
- (3) Where a redundancy scheme provides for the redundant building or any part thereof to remain vested in the diocesan board of finance, the scheme may also provide—
- (a) for appropriating the whole or any part of the land annexed or belonging to the redundant building, or the church of which it forms part, to a use or uses specified or described in the scheme;
  - (b) for empowering the said board themselves to use or hold that land or any part of it for the use or uses so specified or described or to let or license it for such use or uses as aforesaid, or partly the one and partly the other;
  - (c) for empowering the Commissioners, subject to any conditions prescribed by the scheme, to sell, give or exchange that land or any part of it for such use or uses as aforesaid;
  - (d) for transferring to the said board responsibility for the care and maintenance of that land or any part of it;
- and the scheme may provide as mentioned in paragraph (d) above notwithstanding that the land is or has been used for burials.
- (4) Where a redundancy scheme provides for the demolition of the redundant building or any part thereof, it may also provide—

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- (a) for the sale, gift, exchange or lease by the Commissioners of the site or part of the site of the demolished building or part of the building, with or without the whole or any part of the land annexed or belonging to the building or to the church of which it forms part;
  - (b) for the disposal of the materials arising from the demolition;
  - (c) for specifying the use or uses for which any land sold, given, exchanged or let by the Commissioners as aforesaid is to be used, or allowing it to be used without limitation;
  - (d) for appropriating the said site or any part thereof for use as part of the churchyard or burial ground or for other ecclesiastical purposes of the parish.
- (5) The proceeds of any sale or exchange under subsection (2), (3) or (4) and the premiums on any lease or licence thereunder shall be paid to the Commissioners, who, subject to subsections (6), (7), (8), and (9) and to an appropriate order made under section 53(1) (b), shall pay two-thirds of the net proceeds and net premiums to the diocesan pastoral account and shall apply the remaining one-third in accordance with section 52, and the net rent payable under any such lease or licence shall be paid into the said account.
- (6) Where in exercise of the power conferred on the Redundant Churches Fund by section 44(8) the Fund has contributed to the cost of the care and maintenance of a church or part of a church, then, unless that church or part is vested in the Fund, the sum contributed by the Fund under that subsection, or so much thereof as the Commissioners may, with the agreement of the Secretary of State, determine, shall be repaid to the Fund by the Commissioners out of the proceeds of any sale or exchange, or the premiums on any lease or licence, of that church or part or the site thereof under subsection (2), (3) or (4) before the net proceeds or net premiums, as the case may be, are paid or applied in accordance with subsection (5).
- (7) Where in exercise of the said power the Redundant Churches Fund has contributed to the cost of the care and maintenance of a church or part of a church, not being a church or part which is vested in the Fund, and the church or part or the site thereof is let or licensed by the diocesan board of finance under subsection (2) or (3) or let by the Commissioners under subsection (4), the net rent from time to time paid thereunder shall be paid by the said board or the Commissioners as the case may be, to the Fund until the sum contributed by the Fund, or so much thereof as the Commissioners may, with the agreement of the Secretary of State, determine, has been repaid to the Fund out of such rent.
- (8) Where before a declaration of redundancy was made in respect of a church or part of a church that church or part was the subject of a sharing agreement under the <sup>M9</sup>Sharing of Church Buildings Act 1969, and on the termination of the agreement it was vested in an incumbent by section 9(3) of that Act, any contribution in the nature of capital made in accordance with the agreement by any party thereto, other than a party acting on behalf of the Church of England, or so much thereof as the Commissioners may determine, may be repaid to that party by the Commissioners out of the proceeds of any sale or exchange, or the premiums on any lease or licence, of that church or part or the site thereof under subsection (2), (3) or (4) before the net proceeds or net premiums, as the case may be, are paid or applied in accordance with subsection (5).
- (9) Where a pastoral scheme makes a declaration of redundancy in respect of a church, being a church to which section 46(1) would have applied but for the fact that none of the conditions referred to in that subsection was fulfilled in the case of that church, then, if any subsequent redundancy scheme which makes provision for the redundant

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- building also provides for any of the matters authorised to be included in the scheme by subsection (2)(b) or (c), subsection (3)(b) or (c) or subsection (4)(a) or (b)—
- (a) the proceeds of any sale or exchange made, and the premiums on any lease or licence granted, by virtue of those provisions shall be paid to the Commissioners in accordance with subsection (5) of this section, but
  - (b) the net proceeds and net premiums shall be applied in accordance with section 46(1)(c) and not in accordance with subsection (5).
- (10) In negotiating the sale or other disposal of any property under subsection (2), (3) or (4), the Commissioners shall consult with the diocesan board of finance.
- (11) Where a redundancy scheme makes provision for any land which has been used for burials, that provision shall have effect notwithstanding section 3 of the <sup>M10</sup>Disused Burial Grounds Act 1884 (which prohibits the erection of buildings upon disused burial grounds), if one or other of the following conditions is satisfied, namely—
- (a) that no person has been buried in any of the land during the period of 50 years immediately before the making of the scheme; or
  - (b) that no relative or personal representative of a deceased person buried in the land during that period has objected to the draft scheme, or all such objections have been withdrawn;
- and the said section shall otherwise apply.
- (12) Where a redundancy scheme provides for the care and maintenance of the redundant building or any part thereof by the Redundant Churches Fund, the scheme may also provide for the care and maintenance by the Fund of the whole or any part of the land annexed or belonging to the building or the church of which the building is part, and may so provide notwithstanding that the land is or has been used for burials.
- (13) For the purposes of this section and of sections 46 and 47, and without prejudice to the generality of the provisions thereof, the use of a building or part of a building for such special or occasional religious worship as may be authorised by the bishop, or its use as a place of religious worship for a university, college, school or other institution, or its use for religious worship by any Church other than the Church of England, shall be a use to which a redundant building or a part thereof may be appropriated by a pastoral or redundancy scheme, and the consent of the incumbent or priest in charge of the benefice in the area of which the building is situated shall not be required for any such use.
- (14) Section 38 shall apply to redundancy schemes in like manner as it applies to pastoral schemes, with the omission of the reference to the agreement of the bishop or bishops concerned.

#### **Marginal Citations**

**M9** 1969 c. 38.

**M10** 1884 c. 72.

## **52 Application of remainder of proceeds of sales and other disposals.**

- (1) The Commissioners shall apply the moneys comprised in the remaining one-third of the net proceeds and net premiums, or the balance thereof, mentioned in section 46(1) and section 51(5) in the following manner:—

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- (a) the said moneys up to a total in any five year period of such figure as shall be determined in accordance with section 53 for that period shall be paid to the Redundant Churches Fund;
  - (b) so far as the said moneys exceed that figure in any five year period, but subject to an appropriate order made under section 53(1)(c), they shall from time to time be allocated to the diocesan pastoral accounts of such dioceses, in such amounts, as the Commissioners may determine, giving preference to the dioceses which have received and are likely to receive less by way of payments under sections 46(1) and 51(5) than other dioceses.
- (2) In this section and the next following section the expression “five year period” means the period of five years beginning with 1 April 1979 and any subsequent period of five years, being a period which follows immediately after the preceding period of five years.

### **53 Orders of Commissioners determining or varying payments to Redundant Churches Fund.**

- (1) The Commissioners by order—
- (a) shall determine in respect of each five year period the total amount of grants to be made by the Commissioners under section 44(10) and the maximum figure to be paid to the Redundant Churches Fund under section 52(1);
  - (b) may in respect of any five year period vary the proportions of two-thirds and one-third specified in section 46(1) and section 51(5);
  - (c) may in respect of any five year period direct the payment to the Redundant Churches Fund out of the moneys mentioned in section 52(1) of sums additional to the said maximum figure.
- (2) An order made under subsection (1) may specify conditions which must be satisfied before a payment is made by the Commissioners.
- (3) An order made under subsection (1)(b) shall apply to all transactions completed after the date on which the order comes into operation, except such transactions (if any) as may be specified in the order.
- (4) When an order has been made under subsection (1)(c) the Commissioners shall retain the moneys mentioned in section 52 pending the final decision whether or not the order is to have effect, and shall then allocate them accordingly.
- (5) An order under this section may be varied or revoked by a subsequent order made thereunder.
- (6) Every order made under this section shall be laid before the General Synod and shall not come into operation unless and until it has been approved by the General Synod.
- (7) The <sup>M11</sup>Statutory Instruments Act 1946 shall apply to any order approved by the General Synod under subsection (6) as if it were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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#### Marginal Citations

M11 1946 c. 36.

### 54 Redundancy schemes in respect of churches closed or demolished otherwise than under this Measure.

- (1) Where the bishop of a diocese certifies that a church in his diocese or any part of such a church has not been used for divine service since 1 April 1964, and the incumbent (if any), the patron and the parochial church council of the parish in which the church is situated give their consent, the Commissioners may make an order declaring the church or part to be redundant and thereupon this Part shall apply as if the said declaration were a declaration of redundancy made by a pastoral scheme.
- (2) Where any church or part of a church has been demolished before the commencement of this Measure, or is subsequently demolished, otherwise than under this Part, a redundancy scheme providing for all or any of the matters mentioned in section 51(4) may, at any time after the commencement of this Measure or, as the case may be, after the demolition, be prepared, made and confirmed in accordance with subsections (2) to (6) of section 50 and subsections (8) and (9) of section 50 shall apply thereto.
- (3) Where by virtue of subsection (2) a redundancy scheme provides for any of the matters mentioned in section 51(4)(a), section 51(5) shall apply in relation to the proceeds and net proceeds of any sale or exchange, and to the premiums and net premiums on any lease, of the site or part of the site of the church or part of the church to which the scheme applies as it applies where a redundancy scheme which provides for the demolition of a redundant building also provides for any of those matters <sup>[F1]</sup>: Provided that, where the Commissioners are satisfied that a new church or place of worship is to be provided in the area of the benefice in which a demolished church was situated, to take the place of the demolished church, the net proceeds and the net premiums shall be applied in accordance with section 46(1)(c)].

#### Textual Amendments

**F1** Words in s. 54(3) inserted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para.20**; Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

### 55 Schemes under Charities Act 1960 for redundant chapels belonging to charities.

- (1) The power of the court (as defined by <sup>[F2]</sup>the Charities Act 1993) to make schemes under its jurisdiction with respect to charities, and the power of the Charity Commissioners to make schemes under the said Act, shall extend to the making of schemes with respect to consecrated chapels belonging to charities which are no longer needed for the purposes of the charity, and section <sup>[F2]</sup>section 96(2)(c) of the said Act shall not be taken as preventing the making of any such scheme.
- (2) Where a scheme is made under this section, the bishop may, if he thinks it proper to do so, by order under his seal direct that section 61(1) and section 65 of this Measure, if applicable, shall apply to the chapel as they apply to the buildings mentioned in those sections, and those sections shall thereupon apply accordingly, and the scheme, so far

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as it relates to the chapel, shall not have effect unless and until such an order is made, or the bishop directs that the scheme may have effect without such an order.

- (3) A scheme made under this section may provide—
- (a) for the demolition of the chapel and the disposal of the materials arising from the demolition;
  - (b) for the sale or other disposal of the chapel or site thereof and the application of the proceeds;
  - (c) for the appropriation of the chapel to such uses as may be specified or generally described in the scheme;
  - (d) for matters supplementary or incidental to the matters aforesaid.
- (4) For the purposes of this section a consecrated chapel held on charitable trusts for the purpose of religious worship by the beneficiaries and staff of a charity and not by the general public shall be deemed to belong to that charity, notwithstanding that the trusts on which the chapel is held are separate from those of the charity, but save as aforesaid this section shall not apply to a chapel held on separate trusts relating to the use thereof for religious worship.
- (5) Section 54 of this Measure shall not apply to any consecrated chapel belonging to a charity.

#### Textual Amendments

**F2** Words in s. 55(1) substituted (E.W.) (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), [Sch. 6 para. 18\(2\)](#)

## 56 Churches not to be closed or disposed of otherwise than under this Measure.

- (1) It shall not be lawful to make any order or give any direction for closing a church on the ground that it is no longer required for use as a church, and the only procedure for closing a church on that ground shall be by way of a declaration of redundancy or the exercise of powers under section 55.
- (2) It shall not be lawful to sell, lease or otherwise dispose of any church or part of a church or the site or part of the site of any church or any consecrated land belonging or annexed to a church except in pursuance of powers under this Part or section 30.
- (3) The foregoing provisions of this section shall not—
  - (a) prevent the grant of a faculty authorising a suitable use of part of a church or the grant of any faculty in respect of any such land as aforesaid; or
  - (b) affect any powers under any Act of Parliament.
  - <sup>F3</sup>(c) affect the power of the bishop of a diocese under section 22 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 to make an order directing that a building or land shall not be subject to the legal effects of consecration]
- (4) Where any church other than a church which has been declared redundant is purchased compulsorily or is purchased by agreement under an enactment conferring powers of compulsory purchase, then for the purposes of any enactment applying to the disposal of sums paid to the Commissioners in respect of the purchase of the church or any land annexed or belonging thereto, or in respect of compensation for damage to other ecclesiastical property arising in connection with the purchase, the provisions of this



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Part relating to the disposal of the proceeds of sale of a redundant building or any land annexed or belonging to a redundant church shall be deemed not to be applicable.

#### Textual Amendments

- F3** S. 56(3)(c) added (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 32(1), [sch. 7 para. 5](#) (with s. 31(6)); Instrument dated 16.2.1993 made by the [Archbishops of Canterbury and York](#)

#### *Amendment and revocation of redundancy schemes and redundancy provisions in pastoral schemes*

### **57 Amendment of redundancy schemes and provisions.**

- (1) A redundancy scheme, and such provisions of a pastoral scheme as are made by virtue of section 46 or section 47, may be amended by a subsequent redundancy scheme prepared, made and confirmed in accordance with subsections (2) to (6) of section 50, and subsections (8) and (9) shall apply thereto.
- (2) An amending redundancy scheme may revoke all or any provisions of the previous redundancy scheme or, as the case may be, any such provisions of a pastoral scheme, and may substitute or add other provisions providing for any of the matters mentioned in section 51, so far as applicable, and may contain such transitional provisions as appear to the Commissioners to be necessary or expedient in consequence of the changes made by the amending scheme.
- (3) Without prejudice to the provisions of subsection (2), the Commissioners may, with the agreement of the Secretary of State, make an amending redundancy scheme which provides—
  - (a) for empowering the Commissioners to sell, give or exchange any property vested in the Redundant Churches Fund, being a redundant building or any part thereof or any land annexed or belonging to the building or the church of which it forms part, for any use or uses which appear to the Commissioners to be suitable and which shall be specified or described in the scheme; and
  - (b) for empowering the diocesan board of finance to use or hold that property for such use or uses as aforesaid, or to let or license it for that use or those uses, or partly the one and partly the other;

and the scheme may for that purpose provide that immediately before the date on which the property vests in the Commissioners under section 59(2) or in the diocesan board of finance under section 59(3), as the circumstances require, it shall cease to be vested in the said Fund.

Before preparing a draft of a scheme which provides as aforesaid the Commissioners shall consult the said Fund.

- (4) The proceeds of any sale or exchange made, and the premiums on any lease or licence granted, by virtue of subsection (3) shall be paid to the Commissioners, and out of those proceeds or premiums, as the case may be, the sum expended by the Redundant Churches Fund on the care and maintenance of the property to which the amending redundancy scheme relates, or so much thereof as the Commissioners may, with the agreement of the Secretary of State, determine, shall be repaid to the Fund by the Commissioners, and subject as aforesaid and to an appropriate order made under

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section 53(1)(b) or (c), the net proceeds or net premiums, as the case may be, shall be paid and applied in accordance with section 51(5).

- (5) Where any property to which the amending redundancy scheme relates is by virtue of subsection (3) let or licensed by the diocesan board of finance, the net rent from time to time paid thereunder shall be paid by the said board to the Redundant Churches Fund until the sum expended by the Fund on the care and maintenance of that property, or so much of that sum as the Commissioners may, with the agreement of the Secretary of State, determine, has been repaid to the Fund out of such rent.
- (6) A redundancy scheme or any provision thereof, and any such provision of a pastoral scheme, may be amended or revoked under this section before it comes into operation.

## **58 Restoration of redundant building to use as a church building.**

A pastoral scheme may provide that a redundant building or part of such a building which is vested in the Redundant Churches Fund or the diocesan board of finance or the Commissioners shall be restored to use as a church or part of a church, and may further provide:—

- (a) for designating the church as a parish church or chapel of ease;
- (b) for vesting the building or part, with or without any land vested as aforesaid with the building or part, in the incumbent of the benefice in the area of which it is situated, or in such other person as may be specified in the scheme;
- (c) for such transitional, supplementary or consequential matters as appear to the Commissioners to be necessary or expedient;
- (d) for revoking the declaration of redundancy and revoking or amending any provisions, whether in a pastoral scheme or redundancy scheme, made under this Part in relation to the redundant building or part.

*Vesting of property and other supplementary provisions*

## **59 Vesting of property.**

- (1) Where a redundancy scheme or a pastoral scheme to which section 46 applies provides for the demolition of the redundant building or any part thereof, the building or part thereof and any land which under the scheme is to be sold, given, exchanged or let with the site of the demolished building or part thereof shall by virtue of this Measure, without any conveyance or other assurance, vest in the appropriate body on the date when the relevant provisions of the scheme come into operation.

In this subsection “the appropriate body” means the body, being either the Commissioners or the diocesan board of finance, by which in accordance with the scheme the building or part thereof in question is to be demolished.

- (2) Where a redundancy scheme or a pastoral scheme to which section 46 or section 47 applies provides for empowering the Commissioners to sell, give or exchange the redundant building or any part thereof or any land annexed or belonging to the building or the church of which it forms part for a use or uses specified or described in the scheme, the building or part thereof or land shall vest in the Commissioners as aforesaid on the date when the relevant provisions of the scheme come into operation.
- (3) Where a redundancy scheme or a pastoral scheme to which section 46 or section 47 applies provides for the use, holding, letting or licensing by the diocesan board of

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finance of the redundant building or any part thereof or any land annexed or belonging to the building or the church of which it forms part for a use or uses specified or described in the scheme, and the building or part thereof or land is not, on the date when the relevant provisions of the scheme come into operation, vested in the said board, it shall by virtue of this Measure, without any conveyance or other assurance, vest in the said board on the said date.

- (4) Where a redundancy scheme or a pastoral scheme to which either section 46 or section 47 applies provides for appropriating any land to use as part of a churchyard or burial ground, the land shall, on the date when the relevant provisions of the scheme come into operation, vest by virtue of this Measure, without any conveyance or other assurance, in the person in whom the churchyard or burial ground is vested.
- (5) Where a redundancy scheme or a pastoral scheme to which section 47 applies provides for the care and maintenance by the Redundant Churches Fund of a redundant building or any part thereof or any land annexed or belonging to the building or the church of which it forms part, the building or part thereof or land shall by virtue of this Measure, without any conveyance or other assurance, vest in the said Fund.
- (6) Where a redundancy scheme provides for transferring to the diocesan board of finance responsibility for the care and maintenance of any land annexed or belonging to a redundant building or the church of which it forms part, the land shall by virtue of this Measure, without any conveyance or other assurance, vest in the said board.
- (7) Any property vesting under this section or under section 49(1) shall vest free of any trust or burial rights:

Provided that any person entitled to burial rights may claim compensation in respect of the loss thereof, and any such claim in default of agreement shall be referred to and determined by the consistory court of the diocese, subject to an appeal to the Dean of the Arches and Auditor, and the amount of any compensation awarded shall be paid by the diocesan board of finance and the payment shall be treated as money expended on the property for the purpose of furthering the disposal or use thereof.

- (8) The body in whom any property vests as aforesaid shall be deemed to have an interest, for the purposes of faculty proceedings, in any other property so vested or any property formerly annexed or belonging to or held with property so vested.

## **60 Rights of way and other easements.**

- (1) Where any land annexed or belonging to a church the whole or part of which is a redundant building does not vest by virtue of this Measure in the diocesan board of finance, the Commissioners or the Redundant Churches Fund, the redundancy scheme or (in a case to which section 46 or section 47 applies) the pastoral scheme may provide for conferring on any of the said bodies in whom the building or site of the building or any part of the building or site or any other land annexed or belonging to the church vests as aforesaid, such rights of way or other easements over or in the land not so vesting as appear to the Commissioners to be necessary—
  - (a) to enable any property so vesting to be used for a use or uses specified or described in the redundancy scheme or pastoral scheme, or to facilitate such use;
  - (b) to enable any property so vesting which is to be sold, given, exchanged or let by the Commissioners (otherwise than for such use as aforesaid), to be

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used for such purposes as appear to the Commissioners to be reasonable, or to facilitate such use; or

- (c) to enable the Redundant Churches Fund to perform its function with respect to any property so vesting in the Fund, including the giving of reasonable access to members of the public.
- (2) Where rights of way over land adjoining or adjacent to a church to which or a part of which a declaration of redundancy relates were, before the declaration took effect, enjoyed by persons attending the church, and the church or part vests by virtue of this Measure in the Redundant Churches Fund or the diocesan board of finance, the said rights of way shall be enjoyed by the Fund or the board, as the case may be, so far as necessary for the performance of its functions and by members of the public for the purpose of visiting the church.

## **61 Removal of legal effects of consecration of buildings and land.**

- (1) Where any consecrated building or part of a building or land is vested in the Commissioners under section 59 or is appropriated to a use or uses specified or described in a redundancy scheme or a pastoral scheme to which section 46 or section 47 applies or is vested in the diocesan board of finance in pursuance of a redundancy scheme, then, unless the scheme otherwise provides,—
- (a) the building or part of a building or land shall not be subject to the legal effects of consecration; and
  - (b) in particular, the jurisdiction of any court or person with respect to the granting of faculties shall cease to extend to the building or part of a building or land.
- (2) Where any consecrated building or part of a building or land is vested in the Redundant Churches Fund under section 59, the said jurisdiction shall cease to extend thereto, and accordingly any works or alterations may be carried out in or in relation to the building or part of a building or land without the need for a faculty, but save as aforesaid it shall continue to be subject to the legal effects of consecration.
- (3) This section shall not apply to land appropriated to use as part of a churchyard or burial ground or to a building or part of a building appropriated to use for religious worship in accordance with the rites of the Church of England, and if any building or part of a building or land to which this section applies is subsequently restored to its former use or is appropriated to another use for which consecration would be required, this section shall cease to apply thereto.

## **62 Power to impose and enforce covenants.**

- (1) Without prejudice to any restriction or requirement in a redundancy scheme or a pastoral scheme to which section 46 or section 47 applies, the Commissioners or the diocesan board of finance may, in exercising their powers under this Part to sell, give, exchange or let or, as the case may be, to let or license any building or land, include in the conveyance, lease or other instrument such covenants imposing conditions and requirements as to the use of the building or land concerned as the Commissioners or board think necessary or expedient to give effect to the provisions of the scheme or otherwise to secure the suitable use of the building or land; and, in a case where the land is sold, given or exchanged, any such covenants shall be enforceable as if the Commissioners or board were the owners of adjacent land and the covenants were expressed to be entered into for the benefit of that adjacent land, and in the case of covenants of a positive character as if they were negative.

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- (2) Where any such covenant is subsequently varied or released by agreement, any sum of money received by a diocesan board of finance in consideration of the variation or release of a covenant imposed by the board shall be paid to the Commissioners and section 51(5) shall apply in relation to the sum so paid, and in relation to any sum of money received by the Commissioners in consideration of the variation or release of a covenant imposed by them, as it applies in relation to the proceeds of any sale or exchange under section 51(1), (3) or (4).

### **63 Trusts for the repair etc. of redundant buildings and contents.**

- (1) If and so long as a redundant building or part thereof—
- (a) is vested in the diocesan board of finance pending the making or in pursuance of a redundancy scheme; or
  - (b) is vested in the Redundant Churches Fund in pursuance of a redundancy scheme or a pastoral scheme to which section 47 applies; or
  - (c) is vested in the Commissioners or the board for a use or uses specified or described in a pastoral scheme or redundancy scheme;

any property of a charity the purposes of which include the repair and maintenance of the building or the provision or maintenance of ornaments or other contents of the building shall continue to be applicable for that purpose:

Provided that—

- (i) in the case mentioned in paragraph (c), it shall only be so applicable if the scheme so provides;
  - (ii) if the redundant building consists of part of a church or only part of the redundant building is vested as aforesaid, it shall only be so applicable if and to the extent that the scheme so provides.
- (2) If and so long as any land annexed or belonging to a redundant building is vested in the diocesan board of finance in pursuance of a redundancy scheme or is vested in the Redundant Churches Fund in pursuance of a redundancy scheme or a pastoral scheme to which section 47 applies, then, if that land comprises a churchyard, any property of a charity the purposes of which include the maintenance of the churchyard shall continue to be applicable for that purpose;

Provided that if part only of the churchyard is so vested, the said property shall only be so applicable if and to the extent that the scheme so provides.

- (3) Nothing in subsections (1) and (2) shall affect the powers to make schemes in respect of any such charity under [<sup>F4</sup>the Charities Act 1993], and paragraph 11(6) of Schedule 3 to this Measure shall apply to charities affected by a redundancy scheme as it applies to charities affected by a pastoral scheme or order.
- (4) Where the purposes of a charity include the giving of sermons or lectures in any church and, by reason of a declaration of redundancy relating to the church or a part thereof, the sermons or lectures cannot be given in that church, they shall be given in the parish church of the parish in which the first-mentioned church is situated, or in such other church as the bishop may direct in an instrument under seal with the approval of the Charity Commissioners given under the hand of an Assistant Commissioner.

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### Textual Amendments

**F4** Words in s. 63(3) substituted (E.W.) (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), **Sch. 6 para. 18(3)**

## 64 Disposal of font, communion table and plate, and other contents.

- (1) Before any church or part of a church is demolished in pursuance of a redundancy scheme or pastoral scheme, or is appropriated to any use specified or described in such a scheme, the body in whom the church is vested shall transfer the font, communion table and plate used for the purpose of Holy Communion to some other church in the area of the benefice in which the first-mentioned church is situated, or, if the font, communion table or plate is not needed for any such other church, to any church or chapel in the diocese directed by the bishop:

Provided that the scheme may make other provision with respect to the font, communion table and plate, and may exclude this subsection where part of the church remains in use as a church.

- (2) In a case to which subsection (1) applies, the scheme may also make provision with respect to the disposal of any other contents of the church, not being tombstones, monuments or memorials commemorating deceased persons buried in the church or in any land belonging or annexed thereto.
- (3) Where a redundancy scheme or a pastoral scheme to which section 47 applies provides for the care and maintenance of a church or part of a church by the Redundant Churches Fund or where a redundancy scheme provides for a church or part of a church to remain vested in the diocesan board of finance, the scheme may also provide for the vesting in and the care and maintenance by the Fund or the board, as the case may be, of any of the contents of the church or provide for the disposal of any of the contents not being such tombstones, monuments or memorials as aforesaid.
- (4) No faculty shall be required for anything done in pursuance of this section.

## 65 Disposal of human remains.

- (1) Where any human remains are believed to be buried in or beneath a redundant building or in any land to which a redundancy scheme applies, the body or person in whom the property is vested or to whom it is leased or licensed shall not, subject as hereinafter provided, demolish, sell, lease or otherwise dispose of it or any part of it, or use it or any part of it, or carry out any development of it or any part of it, unless—

- (a) as respects the human remains, either the Secretary of State has made an order under subsection (3) in relation to such demolition, use or development or the remains have been removed and reinterred or cremated in accordance with the provisions of Schedule 6; and
- (b) any tombstones, monuments or memorials commemorating the deceased persons have been disposed of in accordance with those provisions,

and (in either case) the other requirements of that Schedule have been complied with in respect thereof.

- (2) The requirements of subsection (1) and of Schedule 6 shall not apply:—
- (a) to a redundant building the whole of which is to be used, without any structural alteration, as a place of religious worship for a university, college, school

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- or other institution, or as a private chapel or monument, or for religious worship by a Church other than the Church of England, so long as the whole of it continues to be so used without any structural alteration involving the disturbance of human remains or the removal of any tombstones, monuments or memorials commemorating deceased persons;
- (b) to any land which remains annexed or belonging to a redundant building used as aforesaid;
  - (c) to any land which is to be used as part of a churchyard or burial ground and is vested under section 59(4) in the person in whom the churchyard or burial ground is vested;
  - (d) to any land which is to be used as part of a burial ground and has been conveyed to a burial authority constituted by or under an enactment.
- (3) Where it appears to the Secretary of State that the demolition of a redundant building or part thereof, or the intended use or development of any property to which a redundancy scheme applies or any part of such property, will not involve the disturbance or human remains, he may, after consultation with the bishop and the Commonwealth War Graves Commission, by order provide for dispensing with the requirements (so far as they concern human remains) of subsection (1) and of Schedule 6 in relation to such demolition of the building or part thereof, or such use or development of the property or part thereof, as may be prescribed by or under the order, subject to such conditions, restrictions and requirements as may be so prescribed, and in relation to any sale, lease or other disposal of the property for the purpose of such use or development as aforesaid.
- (4) Any order made under the last foregoing subsection may be amended or revoked by a subsequent order made in like manner and subject to the like conditions, and, if at any time the requirements of subsection (1) and of Schedule 6 are complied with in respect of the property, the order shall cease to have effect.
- (5) Where an order is made under this section in respect of any property, a copy thereof, certified by or on behalf of the Secretary of State to be a true copy, shall be deposited with the registering authority (within the meaning of the <sup>M12</sup>Local Land Charges Act 1975), and the order shall be a local land charge.
- (6) Where, by virtue of any such order, human remains are not removed and reinterred or cremated, the requirements of subsection (1) and of Schedule 6, so far as they relate to the disposal of tombstones, monuments and memorials, shall none the less apply.
- (7) Where there is situated in any redundant building or part of a redundant building or any land to which a redundancy scheme applies any monument or memorial commemorating a deceased person whose remains are not buried in the building or part thereof or land, the body or person in whom the building or part thereof or land is vested or to whom it is leased or licensed shall not demolish, sell, lease or otherwise dispose of it or use it for any use or carry out any development thereof, unless the monument or memorial has been disposed of in such manner as the bishop after consultation with the diocesan advisory committee for the care of churches has directed, or the bishop has after such consultation dispensed with this requirement.
- (8) No faculty shall be required for anything done in pursuance of this section or Schedule 6.
- (9) In this section any reference to a redundancy scheme shall include a reference to the provisions of a pastoral scheme providing for the matters referred to in section 30, section 46 or section 47.

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#### Modifications etc. (not altering text)

- C2** S. 65: power to apply conferred (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), [s. 22\(2\)](#), (with s. 31(6)); [Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York](#).

#### Marginal Citations

- M12** [1975 c. 76](#).

### *Preservation of redundant churches by Secretary of State*

## **66 Transfer of redundant churches to Secretary of State.**

(1) Notwithstanding anything in this Part,—

- (a) where a redundant building or any part thereof is vested in the diocesan board of finance, whether in pursuance of a pastoral scheme or a redundancy scheme or pending the making of a redundancy scheme, the board may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with the Secretary of State for the acquisition and preservation by the Secretary of State, whether in pursuance of existing statutory provisions or further provisions enacted after the passing of this Measure, of the building or part with or without other land so vested in the board;
- (b) where a redundant building or any part thereof is vested in the Redundant Churches Fund in pursuance of a redundancy scheme or a pastoral scheme to which section 47 applies the Fund may enter into and carry out such an agreement as aforesaid for the acquisition and preservation by the Secretary of State of the building or part with or without other land so vested;
- <sup>[F5]</sup>(c) where a redundant building or any part thereof is situated in England and is vested in the diocesan board of finance, whether in pursuance of a pastoral scheme or a redundancy scheme or pending the making of a redundancy scheme, the board may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with the Historic Buildings and Monuments Commission for England for the acquisition and preservation by the Commission of the building or part with or without other land so situated and so vested in the board;
- (d) where a redundant building or any part thereof is situated in England and is vested in the Redundant Churches Fund in pursuance of a redundancy scheme or a pastoral scheme to which section 47 applies, the Fund may enter into and carry out an agreement with the Historic Buildings and Monuments Commission for England for the acquisition and preservation by the Commission of the building or part with or without other land so situated and so vested;]

and on such acquisition this Part, except so far as it is applied by <sup>[F6]</sup>subsection (2) and (3)], and any redundancy scheme made with respect to the redundant building, or any provision of a pastoral scheme so made by virtue of section 46 or section 47, shall cease to apply to the property acquired.

<sup>[F7]</sup>(1A) The Historic Buildings and Monuments Commission for England shall not enter into an agreement under subsection (1)(c) or (d) without the consent of the Secretary of State.]



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- (2) Where a redundant building or part thereof is acquired as aforesaid,—
- (a) any rights of way or other easements conferred under section 60(1) and any rights of way enjoyed under section 60(2) shall vest in the Secretary of State [<sup>F8</sup>or (as the case may be) the Historic Buildings and Monuments Commission for England]or be enjoyed by him [<sup>F8</sup>or them]for the performance of his [<sup>F8</sup>or their]functions in relation to the property or for giving reasonable access to the public;
  - (b) sections 59(7), 61(2), 63(1) and 63(2) shall apply as they apply to buildings or parts of buildings and land vested in the Redundant Churches Fund;
  - (c) section 65(1) shall not apply to the disposal to the Secretary of State [<sup>F9</sup>or (as the case may be) the Historic Buildings and Monuments Commission for England].
- (3) A pastoral scheme may make provision under section 58, with the consent of the Secretary of State [<sup>F10</sup>or (as the case may be) the Historic Buildings and Monuments Commission for England], for restoring to use as a church or part of a church any redundant building or part thereof acquired by the Secretary of State [<sup>F10</sup>or the Commission]under this section, and for any of the other matters specified in section 58, and that section shall accordingly apply to any such building or part and to any land acquired by the Secretary of State [<sup>F10</sup>or the Commission]therewith in like manner as it applies to a redundant building vested in the Redundant Churches Fund and land so vested therewith.
- [<sup>F11</sup>(3A) Before giving his consent under subsection (3) in relation to a building or part situated in England, the Secretary of State shall consult with the Historic Buildings and Monuments Commission for England.]
- (4) Where a redundant building or any part thereof is acquired by the Secretary of State [<sup>F12</sup>or the Historic Buildings and Monuments Commission for England]under this section, or an agreement for such acquisition has been made, and any land previously annexed or belonging to the building is vested in the incumbent of the benefice in the area in which the building is situated, the incumbent may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with the Secretary of State [<sup>F12</sup>or the Commission (as the case may be)]for the acquisition of the land by the Secretary of State [<sup>F12</sup>or the Commission (as the case may be)]and for its maintenance with the building or part and subsection (2) shall apply in relation to any land so acquired as it applies in relation to a redundant building or part thereof acquired in pursuance of subsection (1).
- [<sup>F13</sup>(4A) The Historic Buildings and Monuments Commission for England shall not enter into an agreement under subsection (4) unless—
- (a) the land is situated in England, and
  - (b) the Secretary of State has consented.]

(5) An agreement under this section may provide for the acquisition and preservation by the Secretary of State [<sup>F14</sup>or (as the case may be) the Historic Buildings and Monuments Commission for England]of any of the contents of the redundant building or part thereof, and on such acquisition section 63(1) shall apply to the said contents as they apply to the contents of a building or part thereof vested in the Redundant Churches Fund, but save as aforesaid this Part and any redundancy or pastoral scheme relating to the contents shall cease to apply to the contents so acquired.

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- [<sup>F15</sup>(6) Where a redundant building (or part) situated in England has been acquired for its preservation by the Secretary of State under subsection (1) either with or without any other land so situated, the Historic Buildings and Monuments Commission for England may by agreement with the Secretary of State undertake on his behalf the management and preservation of the building (or part) together with the other land (if any).
- (7) Where the Secretary of State has under subsection (4) acquired land situated in England for its maintenance with a building (or part), the Commission may undertake, in any agreement made under subsection (6) in relation to the building (or part), the maintenance of the land on behalf of the Secretary of State.
- (8) Where the Secretary of State has under subsection (5) acquired for their preservation the contents of a redundant building (or part), the Commission may undertake, in any agreement made under subsection (6) in relation to the building (or part), the preservation of the contents on behalf of the Secretary of State.]

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#### Textual Amendments

- F5** S. 66(1)(c)(d) inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(2\)](#)
- F6** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(2\)](#)
- F7** S. 66(1A) inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(3\)](#)
- F8** Words inserted by the [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(4\)](#)
- F9** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(4\)](#)
- F10** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(5\)](#)
- F11** S. 66(3A) inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(b\)](#)
- F12** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(7\)](#)
- F13** S. 66(4A) inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(8\)](#)
- F14** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(9\)](#)
- F15** S. 66(6)–(8) inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(10\)](#)

**Status:**

Point in time view as at 01/08/1993.

**Changes to legislation:**

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