



# Pastoral Measure 1983 (repealed)

1983 No. 1

## PART III

### REDUNDANT CHURCHES

#### *Redundancy schemes*

#### 49 [F<sup>1</sup>Use seeking 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.

F<sup>2</sup> ...

[F<sup>3</sup>Provided that the Commissioners shall not prepare a pastoral (church buildings disposal) scheme in respect of a building closed for regular public worship for a period of six months after the declaration takes effect if the scheme provides for the demolition of a building which is either a listed building or situated in a conservation area, unless the Commissioners are satisfied, after consulting the Church Buildings Council, that, at that stage, there is no objection to the demolition taking place.]

- (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—
- 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;
  - the said board may without obtaining a faculty[F<sup>4</sup>, but after consulting the Diocesan Advisory Committee and the chancellor of the diocese unless the board considers that, having regard to the urgency of the need to safeguard the contents, it is not practicable to do so,] transfer the contents of the redundant

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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;

<sup>F5</sup>(d) .....

(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>M1</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 [<sup>F6</sup>Church Buildings Council], 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.

**Textual Amendments**

- F1** S. 49 heading substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(a), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F2** Words in s. 49(1) omitted (11.6.2008) by virtue of [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(b), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F3** Words in s. 49(1) added (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(c), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F4** Words in s. 49(2)(b) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(d), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F5** S. 49(2)(d) omitted (11.6.2008) by virtue of [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(e), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F6** Words in s. 49(4) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(f), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops

**Marginal Citations**

- M1** 1955 No. 1.

**50 Procedure for making redundancy schemes.**

(1) [<sup>F7</sup>The Commissioners may at any time or, where the proviso to section 49(1) applies, after the period of six months mentioned therein has expired] , and shall in any case not later than [<sup>F8</sup>two] 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 [<sup>F8</sup>two] years it is found to be impracticable to prepare the draft scheme before that period expires, and it seems to

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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) [<sup>F9</sup>Before preparing any such draft scheme which provides for the demolition or the care and maintenance by the Churches Conservation Trust of the building closed for regular public worship or any part thereof the Commissioners shall consult the Church Buildings Council] :

Provided that if the [<sup>F10</sup>Council] has advised that the demolition of the redundant building or part thereof would not in [<sup>F10</sup>its] opinion be objectionable, <sup>F11</sup>... this subsection shall not apply in relation to that building or part, as the case may be.

- [<sup>F12</sup>(2A) After preparing the draft scheme and before proceeding under the following provisions of this section the Commissioners shall consult the bishop.]

- (3) [<sup>F13</sup>After taking into account any comments made by the bishop, if they decide to proceed with the draft scheme,] the Commissioners shall serve a copy of the draft scheme on the diocesan board of finance, the local planning authority or authorities concerned, [<sup>F13</sup>, the parish council or parish meeting concerned,] the Commonwealth War Graves Commission [<sup>F14</sup>, English Heritage, the Joint Committee of the National Amenity Societies] and the [<sup>F15</sup>Church Buildings Council] 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.

- [<sup>F16</sup>(4A) Where the draft scheme makes or is to make any such provision as is referred to in section 51(1)(a) and it is proposed to make any architectural or structural changes in the building closed for regular public worship or any part thereof to facilitate the use or uses referred to in that section, the Commissioners shall not make the scheme unless they have first consulted the Church Buildings Council on those proposed changes.]

- (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.

- [<sup>F17</sup>(5A) The Commissioners may, if they think fit, afford an opportunity to any person, whether he has made written representations or not, to make oral representations with respect to the draft scheme.

- (5B) The Commissioners may, before or after the period within which written representations may be made under this section, extend that period, and any representations made within the period so extended shall be deemed to be duly made.

- (5C) The Commissioners may at any time make such amendments to the draft scheme as may appear to them to be necessary for the purposes of correcting any drafting mistake or omission.]

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- (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<sup>F18</sup>....
- (7) If the Commissioners decide in accordance with subsection (5) not to proceed with a draft scheme,<sup>F19</sup>..., they shall as soon as possible prepare a new draft scheme, and subsections (2) to (6) shall apply thereto.

<sup>F20</sup>(8) .....

[<sup>F21</sup>(9) Sections 10 and 11 shall apply, with the necessary modifications, to schemes under this section as they apply to [<sup>F22</sup>pastoral church buildings schemes] .]

#### Textual Amendments

- F7** Words in s. 50(1) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(a\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F8** Words in s. 50(1) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(b\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F9** Words in s. 50(2) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(c\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F10** Word in s. 50(2) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(c\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F11** Words in s. 50(2) omitted (11.6.2008) by virtue of [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(c\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F12** S. 50(2A) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(d\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F13** Words in s. 50(3) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(e\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F14** Words in s. 50(3) inserted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\), s. 11\(2\), Sch. 4 para. 14\(a\)](#); 2005 No. 2, Instrument made by Archbishops
- F15** Words in s. 50(3) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(e\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F16** S. 50(4A) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(f\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F17** S. 50(5A)-(5C) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(g\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F18** Words in s. 50(6) omitted (1.6.2005) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\), s. 11\(2\), Sch. 4 para. 14\(b\)](#); 2005 No. 2, Instrument made by Archbishops
- F19** Words in s. 50(7) omitted (1.6.2005) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\), s. 11\(2\), Sch. 4 para. 14\(c\)](#); 2005 No. 2, Instrument made by Archbishops
- F20** S. 50(8) repealed (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\), s. 11\(2\), Sch. 4 para. 14\(d\), Sch. 5](#); 2005 No. 2, Instrument made by Archbishops
- F21** S. 50(9) substituted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\), s. 11\(2\), Sch. 4 para. 14\(e\)](#); 2005 No. 2, Instrument made by Archbishops
- F22** Words in s. 50(9) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 45\(h\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops

## 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 -
    - [<sup>F23</sup>(i) after consultation with the [<sup>F24</sup>Church Buildings Council] 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 England; and
    - (ii) that the Redundant Churches Fund will have the resources to meet the cost of repairing and maintaining it,the scheme may provide for its care and maintenance by the 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 [<sup>F25</sup>either by the Commissioners or by the diocesan board of finance].
- (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 [<sup>F26</sup>or the diocesan board of finance], 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;

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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—
- (a) for the sale, gift, exchange or lease by the Commissioners [<sup>F27</sup>or the diocesan board of finance, as the case may be,] 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 [<sup>F28</sup>there shall be inserted the words “or the diocesan board of finance, as the case may be,] 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 [<sup>F29</sup>(2), (3) or (4)] 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>M2</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

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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 [<sup>F30</sup>a pastoral church buildings scheme] makes a declaration of redundancy in respect of a church, [<sup>F31</sup>and the Commissioners are satisfied that a new church or place of worship is to be provided in the area of the benefice in which the first-mentioned church is situated to take the place of that church], then, if any subsequent redundancy scheme which makes provision [<sup>F32</sup>, within the period of three years from the declaration of closure or such longer period as the Commissioners may allow,] for the redundant 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>M3</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 [<sup>F30</sup>pastoral church buildings schemes], with the omission of the reference to the agreement of the bishop or bishops concerned.

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*Changes to legislation: There are currently no known outstanding effects for the Pastoral Measure 1983 (repealed), Cross Heading: Redundancy schemes. (See end of Document for details)*

#### Textual Amendments

- F23** S. 51(1)(b)(i)(ii) inserted (1.4.1994) by 1994 No. 1, **s. 4**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F24** Words in s. 51(1)(b) substituted (11.6.2008) by *Dioceses, Pastoral and Mission Measure 2007 (No. 1)*, **ss. 46(a), 66(2)** (with *Sch. 6 paras. 1-5*); 2007 No. 3, Instrument made by Archbishops
- F25** Words in s. 51(1)(d) added (1.6.2005) by *Church of England (Miscellaneous Provisions) Measure 2005 (No. 3)*, s. 11(2), **Sch. 4 para. 15(a)**; 2005 No. 2, Instrument made by Archbishops
- F26** Words in s. 51(2)(c) inserted (11.6.2008) by *Dioceses, Pastoral and Mission Measure 2007 (No. 1)*, **ss. 46(b), 66(2)** (with *Sch. 6 paras. 1-5*); 2007 No. 3, Instrument made by Archbishops
- F27** Words in s. 51(4)(a) inserted (1.6.2005) by *Church of England (Miscellaneous Provisions) Measure 2005 (No. 3)*, s. 11(2), **Sch. 4 para. 15(b)**; 2005 No. 2, Instrument made by Archbishops
- F28** Words in s. 51(4)(c) inserted (1.6.2005) by *Church of England (Miscellaneous Provisions) Measure 2005 (No. 3)*, s. 11(2), **Sch. 4 para. 15(b)**; 2005 No. 2, Instrument made by Archbishops
- F29** Words in s. 51(7) substituted (11.6.2008) by *Dioceses, Pastoral and Mission Measure 2007 (No. 1)*, **ss. 46(c), 66(2)** (with *Sch. 6 paras. 1-5*); 2007 No. 3, Instrument made by Archbishops
- F30** Words in Pt. 3 substituted (11.6.2008) by *Dioceses, Pastoral and Mission Measure 2007 (No. 1)*, **ss. 40(2), 66(2)** (with *Sch. 6 paras. 1-5*); 2007 No. 3, Instrument made by Archbishops
- F31** Words in s. 51(9) substituted (1.9.1995) by 1995 No. 2, **s. 11(c)**; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York
- F32** Words in s. 51(9) inserted (11.6.2008) by *Dioceses, Pastoral and Mission Measure 2007 (No. 1)*, **ss. 46(d), 66(2)** (with *Sch. 6 paras. 1-5*); 2007 No. 3, Instrument made by Archbishops

#### Marginal Citations

- M2** 1969 c. 38.  
**M3** 1884 c. 72.

### [<sup>F33</sup>52 Application of remainder of proceeds of sales and other disposals

<sup>F34</sup>[(1)] The Commissioners shall allocate the moneys comprised in the remaining one-third of the net proceeds and net premiums, or the balance thereof, mentioned in sections 46(1) and 51(5), in such proportions as they may determine between the Churches Conservation Trust, the redundant churches temporary maintenance account and the diocesan pastoral accounts of such dioceses as they may determine, subject in the case of any amounts allocated to the Churches Conservation Trust, to any order made under section 53(1).

[<sup>F35</sup>(2) In exercising their duty to allocate moneys under subsection (1) the Commissioners may decide not to allocate moneys to any or all of the accounts mentioned in that subsection, in which case all the moneys not so allocated shall be paid to the Churches Conservation Trust.]]

#### Textual Amendments

- F33** S. 52 substituted (1.6.2005) by *Church of England (Miscellaneous Provisions) Measure 2005 (No. 3)*, s. 11(2), **Sch. 4 para. 16**; 2005 No. 2, Instrument made by Archbishops
- F34** S. 52(1): s. 52 renumbered as s. 52(1) (11.6.2008) by *Dioceses, Pastoral and Mission Measure 2007 (No. 1)*, s. 66(2), **Sch. 5 para. 8** (with *Sch. 6 paras. 1-5*); 2007 No. 3, Instrument made by Archbishops
- F35** S. 52(2) added (11.6.2008) by *Dioceses, Pastoral and Mission Measure 2007 (No. 1)*, s. 66(2), **Sch. 5 para. 8** (with *Sch. 6 paras. 1-5*); 2007 No. 3, Instrument made by Archbishops



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

- (1) The Commissioners by order—
  - (a) shall determine [the funding periods for the purposes of this Part and in respect of each funding] period [<sup>F36</sup>the total amount (comprising grants made under section 44(10) and moneys allocated under section 52(1)) to be paid by the Commissioners to the Churches Conservation Trust<sup>37</sup>];
  - (b) may in respect of any [<sup>F37</sup>funding] period vary the proportions of two-thirds and one-third specified in section 46(1) and section 51(5);
  - <sup>F38</sup>(c) .....
- (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.
- <sup>F39</sup>(4) .....
- (5) An order under this section may be varied or revoked by a subsequent order made thereunder [<sup>F40</sup>and the subsequent order may contain such transitional provisions as the Commissioners may consider necessary or expedient to give effect to the variation or revocation].
- (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.
- <sup>F41</sup>[(6A) Where the Standing Committee of the General Synod determines that an order made under this section does not need to be debated by the General Synod, then, unless notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the order to be -debated, the order shall for the purposes of subsection (6) be deemed to have been approved by the General Synod.]
- (7) The <sup>M4</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.

#### Textual Amendments

- F36** Words in s. 53(1)(a) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), s. 66\(2\), Sch. 5 para. 9\(a\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F37** Words in s. 53(1)(b)(c) substituted (1.4.1994) by 1994 No. 1, [s. 6\(a\)\(ii\)](#); Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F38** S. 53(1)(c) repealed (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), s. 66\(2\), Sch. 5 para. 9\(b\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F39** S. 53(4) repealed (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), s. 66\(2\), Sch. 5 para. 9\(b\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F40** Words in s. 53(5) inserted (1.4.1994) by 1994 No. 1, [s. 6\(b\)](#); Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F41** S. 53(6A) inserted (1.4.1994) by 1994 No. 1, [s. 6\(c\)](#); Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

*Status: Point in time view as at 11/06/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Pastoral Measure 1983 (repealed), Cross Heading: Redundancy schemes. (See end of Document for details)*

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

- C1** Words in s. 53(1)(a) substituted (1.4.1994) by 1994 No. 1, s. 6(a)(i); Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- C2** S. 53(6A): Functions of Standing Committee transferred (1.1.1999) to Business Committee 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

- M4** 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 [<sup>F30</sup>a pastoral church buildings 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 [<sup>F42</sup>and made] in accordance with subsections (2) to (6) of section 50 and [<sup>F42</sup>subsection] (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>F43</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

- F30** Words in Pt. 3 substituted (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), ss. 40(2), 66(2) (with Sch. 6 paras. 1-5); 2007 No. 3, Instrument made by Archbishops
- F42** Words in s. 54(2) substituted (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), s. 66(2), Sch. 5 para. 10 (with Sch. 6 paras. 1-5); 2007 No. 3, Instrument made by Archbishops
- F43** 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.

*Status: Point in time view as at 11/06/2008.*

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

- (1) The power of the court (as defined by <sup>F44</sup>the Charities Act 1993]) to make schemes under its jurisdiction with respect to charities, and the power of the <sup>F45</sup>Charity Commission] 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>F44</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 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**

**F44** 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)**

**F45** Words in s. 55(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 69**; S.I. 2007/309, art. 2, Sch.

## **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) <sup>F46</sup>Subject to subsections (2A) and (2B),] 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.

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- [<sup>F47</sup>(2A) Without prejudice to subsection (3)(a), on an application by the incumbent of the benefice comprising or including the parish in which the church is situated or, where the benefice is vacant, the bishop in the name and on behalf of the incumbent in the corporate capacity of the incumbent, the court may grant a faculty for a lease to be granted by the incumbent or, as the case may be, the bishop, of part of a church, provided that the court shall ensure that the premises remaining unlet, together with the premises let, under any lease or leases granted under this subsection, are, taken as a whole, used primarily as a place of worship.
- (2B) On an application by any person referred to in subsection (2A) the court may, whether or not it grants a faculty under that subsection, grant a faculty for the lease of any land belonging to or annexed to a church.
- (2C) The parochial church council for the parish in which the church or land is situated shall be a party to any lease granted under subsection (2A) or (2B) and, without prejudice to the rights and obligations of the lessor, shall have the same rights as the lessor to enforce any term of the lease which may be binding on the lessee, including any rights to forfeit the lease or to distrain on the property of the lessee.
- (2D) Subject to any directions of the court, any rent or other payment payable under any lease granted under subsection (2A) or (2B) shall be paid to the parochial church council.
- (2E) Subject to subsections (2D) and (2F), any such lease shall be for such period, and may contain such terms, as the court may determine and the lease or any terms contained therein may be varied at any time by the court on application by any party to the lease or otherwise as authorised by the court.
- (2F) Any such lease shall be deemed to contain the following terms—
- (a) in the case of a lease of part of a church granted under subsection (2A), the premises which are the subject of the lease shall not be used for purposes which are, or in a way which is, inconsistent with the use specified in that subsection, and
  - (b) in the case of a lease granted under subsection (2A) or (2B), no use shall be permitted for residential purposes except by a person who, as an employee of the lessor or otherwise, is required, as a condition of the employment or contract, to reside in the premises or part thereof,
- and the lease shall be deemed to contain a covenant on the part of the lessee to perform the said terms.
- (2G) Where any lease is granted under subsection (2A) or (2B) —
- (a) in the case of a lease of premises to trustees to be held on trust to be used for the purposes of a place of worship, the trustees shall not be entitled to exercise the right conferred by the Places of Worship (Enfranchisement) Act 1920 (10 & 11 Geo. 5 c. 56) to enlarge the leasehold interest by acquiring the freehold;
  - (b) in the case of a lease consisting of a tenancy of premises occupied or to be occupied wholly or partly for the purposes of a business, the tenancy shall not be subject to any provision of Part II of the Landlord and Tenant Act 1954 (2 & 3 Eliz. 2 c. 56) under which the lease is continued until determined, or under which the tenant is entitled to apply to the court for the grant of a new tenancy, in accordance with the provisions of that Part; and
  - (c) in the case of a lease of land consisting of a tenancy which would, but for this subsection, be a farm business tenancy to which the Agricultural Tenancies

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Act 1995 (1995 c. 8) applied, that Act shall not apply to the tenancy and, accordingly, the tenant shall not be entitled to exercise any of the rights conferred by Part I, II or III of that Act.

- (2H) Without prejudice to section 84, where at any time, there is no parochial church council, the foregoing provisions of this section shall have effect and any lease granted under subsection (2A) or (2B) shall be construed as if, for any reference therein to the council, there were substituted a reference to the churchwardens.
- (2I) Where a lease has been granted under subsection (2A) or (2B) and, at any time, the benefice is vacant, the bishop in the name and on behalf of the incumbent in the incumbent's corporate capacity may exercise the power conferred on the lessor by subsection (2E) to apply to the court for a variation of the lease or any terms therein and the lease shall be construed as if any reference therein to the incumbent were a reference to the bishop acting in the name and on behalf of the incumbent as aforesaid.
- (2J) Any question relating to the interpretation or enforcement of any term of any lease granted under subsection (2A) or (2B) shall be determined by the court and section 11 of the [Faculty Jurisdiction Measure 1964 \(1964 No. 5\)](#) shall apply in relation to proceedings under subsection (2E) and this subsection as it applies to the proceedings mentioned in that section.
- (2K) Section 16(2), so far only as it applies to the archdeacon, (3) and (4) of the [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(1991 No. 1\)](#), shall apply to proceedings under subsections (2A), (2B), (2E) and (2J) as they apply to other proceedings for a faculty.
- (2L) In this section, except subsection (2G)(b), "the court" means the consistory court of the diocese in which the building is situated or, in the case of the diocese of Canterbury, the commissary court thereof and section 14 of the [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(1991 No. 1\)](#) shall not apply to the jurisdiction of the court conferred by the foregoing provisions of this section.]
- (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>F48</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 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.

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#### **Textual Amendments**

- F46** Words in s. 56(2) inserted (1.1.2007) by [Pastoral \(Amendment\) Measure 2006 \(No. 2\)](#), **ss. 1(a)**, 2(2); [2006 No. 3](#), Instrument made by Archbishops
- F47** S. 56(2A)-(2L) inserted (1.1.2007) by [Pastoral \(Amendment\) Measure 2006 \(No. 2\)](#), **ss. 1(b)**, 2(2); [2006 No. 3](#), Instrument made by Archbishops
- F48** 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

**Status:**

Point in time view as at 11/06/2008.

**Changes to legislation:**

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