



National Institutions Measure 1998

1998 No. 1

Transfer of functions and officers

5 Transfer of functions

- (1) Subject to the following provisions of this section the Archbishops of Canterbury and York acting jointly may, after consultation with any body appearing to them to be significantly affected, by order transfer to the Council or such other body as may be specified in the order any function previously exercisable by—
 - (a) the Church Commissioners other than—
 - (i) a function relating to the management or ownership of the Commissioners' assets,
 - (ii) a function relating to bishops under any enactment specified in Part I of Schedule 2 to this Measure,
 - (iii) a function relating to cathedrals under any enactment specified in Part II of that Schedule, and
 - (iv) a function under the Church of England (Pensions) Measures 1961 to 1997, or
 - (b) the Central Board of Finance, or
 - (c) the Standing Committee of the General Synod or any of its sub-committees.
- (2) Any such order may contain such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the order, including provisions—
 - (a) amending paragraph 1 of Schedule 1 to the Church Commissioners Measure 1947 (as substituted by section 7 below) so as to reduce the number of Commissioners;
 - (b) for the carrying on and completion by or under the authority of the Council or other body so specified of anything commenced by or under the authority of the Commissioners, the Central Board of Finance or the Standing Committee before the date on which the order takes effect;

- (c) for such adaptation of the statutory provisions relating to any such function transferred as may be necessary to enable it to be exercised by or on behalf of the Council or other body so specified;
 - (d) for the substitution of the Council or other body so specified for the Commissioners, the Central Board of Finance or the Standing Committee in any instrument, contract or legal proceedings made or commenced before the date on which the order takes effect.
- (3) Before making any such order which relates to the functions of the Church Commissioners under the Dioceses Measure 1978 or the Pastoral Measure 1983 the Archbishops shall consult with the Prime Minister and the Church Commissioners.
- (4) An order under subsection (1) above may be varied by a subsequent order made thereunder.
- (5) A draft of any order proposed to be made under subsection (1) above shall be laid before the General Synod and if it is approved by the General Synod, whether with or without amendment, the draft order as so approved shall be referred to the Archbishops.
- (6) Where a draft order is referred to the Archbishops under subsection (5) above then—
 - (a) if it has been approved by the General Synod without any amendment, the Archbishops shall make the order;
 - (b) if it has been approved by the General Synod with amendment, the Archbishops may make the order but, in the case of any order which relates to the functions of the Church Commissioners under the Dioceses Measure 1978 or the Pastoral Measure 1983, shall not do so without further consultation as required by subsection (3) above.
- (7) An order under subsection (1) above which relates to the functions of the Church Commissioners under the Dioceses Measure 1978 or the Pastoral Measure 1983 shall not come into operation unless and until it has been approved by resolution of each House of Parliament.
- (8) The Statutory Instruments Act 1946 shall apply to any order under subsection (1) above as if it were a statutory instrument and, in the case of an order which does not relate to a function to which subsection (7) above applies, 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.

6 Transfer of officers

- (1) Where a person or body to whom this section applies determines that all or any of the officers of that person or body should be transferred to any body or partnership of the kind mentioned in subsection (4) below as a common employer and the last mentioned body or partnership agrees to the transfer, the provisions of Schedule 3 to this Measure shall have effect in relation to each officer transferred.
- (2) This section applies to the following bodies—
 - the Archbishops' Council
 - the Church Commissioners
 - the Central Board of Finance
 - the Pensions Board.

- (3) This section also applies to such other bodies or persons as the Archbishops of Canterbury and York acting jointly may by order determine after consultation with the bodies specified in subsection (2) above.
- (4) Where two or more of the bodies or persons to whom this section applies enter into an agreement—
- (a) which would be a partnership within the meaning of the Partnership Act 1890 if they were carrying on a business with a view to profit, and
 - (b) which provides for the employment of officers,
- that agreement shall be deemed to be a partnership for the purposes of that Act, notwithstanding that they are not carrying on such a business.
- (5) Any partnership agreement of the kind mentioned in subsection (4) above may provide for the admission to the partnership of one or more of the bodies mentioned in subsection (2) above as general partners and of one or more of the bodies or persons to whom this section applies as limited partners.

In this subsection “limited partner” and “general partner” have the same meanings as in the Limited Partnerships Act 1907.