Pastoral Measure 1983

1983 No. 1

A MEASURE passed by The General Synod of The Church of England to consolidate with minor amendments the Pastoral Measure 1968, the Pastoral (Amendment) Measure 1982 and related enactments, which are designed to make better provision for the cure of souls. [9th May 1983]

Modifications etc. (not altering text)

C1 Act restricted (1.1.1999) by 1998 No. 1, **s. 5(3)(6)(7)**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York

C2 Act modified (1.4.1994) by 1994 No. 1, **s. 14**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

Commencement Information

I1 Measure not in force at Royal Assent, wholly in force at 1.11.1983 see s. 94(4)

PART I

PROCEDURE FOR MAKING PASTORAL SCHEMES AND ORDERS

Pastoral committees

1 Constitution and procedure of pastoral committees.

(1) For every diocese there shall be a pastoral committee having such rights, powers, duties and obligations as are vested in the committee by this Measure.

(2) The constitution and rules of procedure of the pastoral committee of a diocese shall be those set out in Schedule 1.

(3) The pastoral committee of a diocese shall present annually to the diocesan synod a report of its activities during the preceding year.

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2 Duties of pastoral committees.

(1) It shall be the duty of the pastoral committee of a diocese from time to time as may be directed by the bishop or as the committee consider necessary to review the arrangements for pastoral supervision in the diocese or any part thereof, (including sharing agreements in respect of a church or parsonage house and any proposals for sharing agreements) and, in cases where they consider it desirable, to make recommendations to the bishop in accordance with section 3 for any of the matters for which provision may be made under this Measure (other than section 36) by a pastoral scheme or pastoral order.

(2) Where the pastoral committee decided on their own initiative to review the arrangements for pastoral supervision in the diocese or a part thereof, they shall consult the bishop and give him particulars of the matters which they intend to consider and of the benefices which will be affected.

(3) The pastoral committee shall at all times—

(a) have particular regard to the making of provision for the cure of souls in the diocese as a whole, including the provision of appropriate spheres of work and conditions of service for all persons engaged in the cure of souls and the provision of reasonable remuneration for such persons;

(b) have regard also to the traditions, needs and characteristics of individual parishes.

(4) The diocesan synod may from time to time indicate to the pastoral committee any matters of diocesan policy to which the committee shall also have regard.

3 Formulation and submission to bishop of draft proposals.

(1) Before deciding to make any recommendations to the bishop, the pastoral committee shall so far as may be practicable ascertain the views of the interested parties or, subject to subsection (7)(a) in the case of interested parties being local planning authorities, invite them to express their views.

(2) Subject to subsections (3) and (4), in this Part "interested parties", in relation to any recommendations, proposals or draft scheme or order, means—

(a) incumbents of any benefices which would be affected by the implementing thereof, including vicars in a team ministry established for the area of any such benefice;

(b) the patrons of any such benefices;

(c) the parochial church councils of any parishes which would be so affected;

(d) the priests in charge of any conventional districts wholly or partly within the area of any benefices which would be so affected and the parochial church councils of such districts;

(e) the archdeacons and rural deans of any archdeaconries and deaneries which would be so affected or to which any such benefices or parishes belong and the lay chairmen of the deanery synods of any such deaneries; and

(f) the local planning authority or authories concerned.

For the purposes of this subsection a change in the patronage of a benefice shall be deemed to affect that benefice and the parish or parishes thereof.

(3) In this Part "interested parties", in relation to any recommendations, proposals, draft scheme or order which are or is limited to creating, altering or dissolving

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archdeaconries or deaneries, or altering the name of any archdeaconry or deanery, means—

(a) the parochial church councils of any parishes for which a change of archdeaconry or deanery, or an alteration of the name thereof, is contemplated or proposed and the parochial church councils of any conventional districts wholly or partly within such parishes;

(b) the incumbents of benefices to which such parishes belong and the priests in charge of such districts; and

(c) the archdeacons and rural deans of the archdeaconries and deaneries affected and the lay chairmen of the deanery synods of such deaneries.

[[F1]Where a team ministry is established for the area of a benefice, the reference in paragraph (b) to the incumbents of benefices shall in relation to that benefice be construed as a reference to all the persons who constitute the team under section 20(1).**]**

(4) In the case of proposals and orders under section 14, the local planning authority or authorities shall not be included among the interested parties.

(5) In the case of interested parties, being incumbents or vicars in a team ministry, the pastoral committee shall, before reaching their decision, afford to each incumbent or vicar, if he so desires, an opportunity of meeting the committee or sub-committee or representative thereof, but, in the case of a recommendation for a union of benefices or otherwise for the dissolution of any benefice or the holding in plurality of any benefice or benefices, or the establishment of a team or group ministry for any benefice or benefices, or the abolition of any office of vicar in a team ministry, the incumbent of the benefice or each of the benefices or the holder of the office of vicar shall have an opportunity of meeting the committee (as distinct from a sub-committee or representative thereof), if he so desires.

(6) In the case of interested parties, being parochial church councils, the committee shall, before reaching their decision, afford to each council or their representative, if the council so request, an opportunity of meeting the committee or, if the committee so decide, a sub-committee thereof, or, with the consent of the council, a representative of the committee.

(7) Before deciding to make a recommendation that a declaration of redundancy be made in respect of any church the committee shall—

(a) ascertain the views of any local planning authority or authorities concerned;

(b) notify the Council for the Care of Churches of the church or churches in respect of which the committee might decide to make such a recommendation and obtain from them a copy of the report which the Council are required to prepare under subsection (8).

(8) As soon as practicable after receiving a notice under subsection (7) the said Council shall prepare a report about—

(a) the historic interest and architectural quality of each church mentioned in the notice and of other churches in the area;

(b) the historic interest and aesthetic qualities of the contents of that and those churches;

(c) any special features of any churchyard or burial ground annexed to any of them;

and shall send a copy of that report to the Commissioners, the diocesan board of finance and the committee.

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(9) When the committee have decided to make recommendations, they shall formulate them in draft proposals and submit them to the bishop, and the bishop may, with the agreement of the committee, make such amendments of the draft proposals as appear to him desirable.

(10) The committee shall annexe to the draft proposals formulated by them a statement of the views of the interested parties and, if those proposals include a proposal that a declaration of redundancy be made in respect of any church, the committee shall annexe a copy of the report prepared by the said Council under subsection (8) to the draft proposals.

(11) In this section "incumbent", in relation to a benefice in respect of which a suspension period has been declared and is for the time being in force, means the priest in charge thereof.

Textual Amendments

F1 Words inserted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), **s. 11**

4 Approval by bishop of draft proposals.

(1) If the bishop approves either with or without amendments draft proposals submitted to him under section 3(9) he shall submit the proposals as approved to the Commissioners and inform the pastoral committee that he has done so.

(2) The pastoral committee shall send a copy of the proposals as approved by the bishop to every interested party with a notice informing him—

(a) that if the Commissioners prepare a draft scheme or order to give effect to the proposals he will be given an opportunity of making representations with respect thereto; but

(b) that any interested party, other than a parochial church council, may by notice in writing served on the Commissioners relinquish his right to receive a copy of the draft scheme or order and the notice specifying the period within which representation may be made.

5 Amendment of proposals and preparation of draft scheme or order by Commissioners.

(1) The Commissioners shall consider any proposals submitted to them as aforesaid and the bishop, in consultation with the pastoral committee, shall consider any comments made by the Commissioners with respect to any of the proposals.

(2) If the proposals provide for a declaration of redundancy and also provide, in the circumstances mentioned in section 46 or section 47—

(a) for the demolition of the church to which the declaration relates, or

(b) for the church being put to a use involving architectural or structural changes in the church, or

(c) for the case and maintenance of the church by the Redundant Churches Fund;

the Commissioners shall consult the Advisory Board.

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(3) After the provisions of the foregoing subsections have been complied with the Commissioners may make, with the agreement of the bishop given after consultation with the pastoral committee, such amendments of the proposals as appear to them desirable.

(4) If it appears to the Commissioners that the implementing of the proposals, with such amendments (if any) as may have been made under subsection (3), would be within the powers exercisable under this Measure (other than section 36) by a pastoral scheme or order, they shall proceed as follows—

(a) if the implementing of the proposals or any of them would require the exercise of powers only exercisable by a pastoral scheme, the Commissioners shall prepare a draft scheme to give effect to the proposals; or

(b) if all the proposals could be implemented by the exercise of powers by a pastoral order (being powers mentioned in section 37), they shall prepare a draft order to give effect to the proposals:

Provided that—

(i) the Commissioners may, with the agreement of the bishop given after consultation with the pastoral committee, decide to proceed with some but not all of the proposals, and in that case this subsection shall apply as if they were the only proposals;

(ii) if some but not all the proposals concerned could be implemented by a pastoral order, the Commissioners may prepare a draft order to give effect to those proposals, or some of them, and prepare a draft scheme to give effect to the other proposals;

(iii) the Commissioners shall not be obliged to prepare a draft order to give effect to a proposal to create an archdeaconry or a proposal that the income of the endowments of a benefice, or part thereof, shall be paid to the income account of the diocesan stipends fund.

6 Notice and publication of draft schemes or orders.

(1) Subject to subsection (2), the Commissioners shall serve a copy of any draft scheme or order prepared under section 5 on each of the interested parties, together with a notice stating that written representations with respect thereto 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 service of the notice.

(2) Subsection (1) shall not apply in relation to any interested party who in accordance with section 4(2) has relinquished his right to receive a copy of the draft scheme or order in question and the notice for which subsection (1) provides.

(3) If a draft scheme provides for a declaration of redundancy, the Commissioners shall—

(a) also serve a copy thereof on the Advisory Board and on the Commonwealth War Graves Commission and, if the draft scheme provides for the care and maintenance of the redundant building by the Redundant Churches Fund, on that Fund;

(b) publish in one or more newspapers circulating in the locality affected by the scheme a notice stating the objects of the draft scheme and naming a place or places within the locality 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

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not less than twenty-eight days after the first publication of the notice in such a newspaper;

and the provisions of paragraph (a) (so far as it relates to the said Commission) and of paragraph (b) shall also apply to a draft scheme providing for any of the matters mentioned in section 30.

(4) The Commissioners shall, in the case of every draft scheme, send copies of such a notice as is mentioned in subsection (3), but specifying a date not less than twenty-eight days after the sending of the notice, to the secretary of the parochial church council of every parish affected by the draft scheme, and require him to affix a copy on or near the principal door of every church in the parish and every building licensed by the bishop for public worship in the parish.

(5) The Commissioners shall consider any written representations duly made with respect to any draft scheme or order and may, if they think fit, afford an opportunity to any person, whether he has made written representations or not, to make oral representations to their representative with respect to the draft scheme or order.

(6) The Commissioners may, before or after the end of 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.

7 Amendment of draft schemes or orders.

(1) The Commissioners—

(a) at the request of the bishop made after consultation with the pastoral committee, or

(b) as a result of any representations,

may amend any draft scheme or order prepared by them under this Part, but any amendments made as a result of any representations shall only be made with the agreement of the bishop given after consultation with the committee.

(2) If any such amendments are made, the amended draft scheme or order shall be treated in the same manner as an original draft scheme or order, and section 6, other than subsection (2), shall apply thereto accordingly.

8 Making of schemes or orders.

(1) Where the Commissioners, having considered the representations (if any), are of opinion that any such draft scheme should be made, and do not propose to amend or further amend it under section 7, they shall submit it to the bishop for his consent and, when he has given his consent, they shall seal a copy of the draft scheme and so make the scheme, and shall submit it for confirmation by Her Majesty in Council.

(2) Where no representations with respect to any such draft order have been made, the Commissioners shall seal a copy thereof and submit it to the bishop.

(3) Where representations with respect to any such draft order have been made, then, unless—

(a) as a result of those representations, the Commissioners decide that the order should not be made, or

(b) the Commissioners propose to amend or further amend the draft order under section 7,

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they shall seal a copy thereof and submit it to the bishop.

(4) Where a copy of an order is submitted to the bishop under this section, he may by applying his seal thereto make the order.

9 Confirmation of schemes by Order in Council.

(1) As soon as possible after a scheme is submitted for confirmation by Her Majesty in Council under section 8, the Commissioners shall—

(a) so far as practicable serve on the persons who duly made written representations with respect to the draft scheme notice of such submission, together with a statement in writing of the Commissioners' decision with respect to those representations and the reasons therefor; and

(b) serve on any other persons, being interested parties, notice of such submission;

and a notice under this subsection shall inform persons who have duly made such representations of their rights, on obtaining the leave of the Judicial Committee of the Privy Council, to appeal to Her Majesty in Council and shall specify the date, being a date not less than twenty-eight days after the service of the notice, on or before which notice of intention to apply for such leave must be given.

When submitting a scheme for confirmation by Her Majesty in Council the Commissioners shall inform the Clerk of the Privy Council of the date which is to be specified in notices under this subsection relating to the scheme.

(2) Any person who has duly made written representations with respect to the draft scheme may appeal to Her Majesty in Council against the scheme or any provisions thereof, but only with the leave of the Judicial Committee of the Privy Council.

(3) The provisions of Schedule 2 shall apply to applications for leave to appeal, and to appeals, to Her Majesty in Council under this section.

(4) If—

(a) no notice of intention to apply for leave to appeal is given on or before the date specified in subsection (1), or

(b) no application for such leave is made within the period prescribed by paragraph 4 of Schedule 2, or

(c) the Judicial Committee refuses to grant such leave, or

(d) the appeal stands dismissed for non-prosecution by virtue of paragraph 11 of that Schedule,

[[F2](e) no person has duly made written representations with respect to the draft scheme; or

(f) written representations with respect to the draft scheme have been duly made but it has not been practicable to serve any notice under subsection (1)(a),**]**

Her Majesty may by Order in Council confirm the scheme.

(5) An Order in Council made under this section shall not be a statutory instrument as defined by section 1 of the [M1]Statutory Instruments Act 1946, and the provisions of that Act shall accordingly not apply thereto.

(6) If leave to appeal is granted, the Judicial Committee of the Privy Council shall hear the appeal, and the Judicial Committee shall make a report thereon and may propose to Her Majesty in Council that the appeal should be allowed or dismissed or that the

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scheme should be returned to the Commissioners for reconsideration, and Her Majesty in Council may accordingly—

(a) allow the appeal, in which case the scheme shall be of no effect, but without prejudice to the making and submission of a further scheme, or

(b) dismiss the appeal and confirm the scheme, or

(c) return the scheme to the Commissioners for reconsideration.

(7) Where a scheme is returned to the Commissioners for reconsideration as aforesaid, they may—

(a) withdraw the scheme, or

(b) re-submit the scheme without any amendment thereof, or

(c) amend the scheme with the agreement of the bishop given after consultation with the pastoral committee.

(8) Where the Commissioners re-submit a scheme without amendment, the Judicial Committee of the Privy Council, without any further hearing, may propose to Her Majesty in Council that the appeal should be allowed or dismissed, and the like effect shall follow on that proposal as if it has been made under subsection (6).

(9) Where the Commissioners amend the scheme, it shall be treated as a draft scheme amended under section 7 and the provisions of this Part shall apply thereto accordingly, and if the amended scheme is submitted to Her Majesty in accordance with those provisions, it shall, on such submission, be treated as a new scheme.

Textual Amendments

F2 S. 9(4)(e)(f) inserted (1.9.1995) by 1995 No. 2, **s. 11(a)**; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York

Marginal Citations

M1 1946 c. 36.

10 Transmission of copies of Order in Council or order.

(1) The Commissioners shall send a copy of every Order in Council by which a scheme is confirmed under section 9 and of every order made by the bishop under section 8 to the interested parties, and, in the case of a scheme containing a declaration of redundancy, to the Advisory Board.

(2) The Commissioners shall also send a copy of every such Order in Council or order to the registrar of the diocese concerned, who shall file it in the diocesan registry.

11 Validity and operation of schemes and orders.

(1) The validity of a scheme made and confirmed by Order in Council under this Part, or of an order made under this Part, shall not be questioned in any legal proceedings.

(2) Except in so far as any such scheme or order, or any provision thereof, is expressed to come into operation on a date, event or contingency specified therein, it shall come into operation on the date on which the scheme is confirmed by Order in Council under section 9 or, as the case may be, the order is made by the bishop under section 8.

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Modified procedure for schemes and orders affecting more than one diocese

12 Limited extension of diocesan proposals and schemes to other dioceses.

(1) The pastoral committee of any diocese may include in recommendations made by them such recommendations affecting another diocese as are capable of implementation by the exercise of the powers specified in section 35 and such recommendations and a scheme or order to implement them may be proceeded with, made and in the case of a scheme confirmed under and in accordance with the foregoing provisions of this Measure, subject to the following conditions:—

(a) before ascertaining the views of any of the persons who would be interested parties as a result of the recommendations affecting the other diocese, the pastoral committee shall obtain the consent of the bishop of that other diocese to the consideration of those recommendations, and he shall, before giving his consent, consult the pastoral committee of his diocese;

(b) the bishop of the first-mentioned diocese shall not submit any draft proposals formulating such recommendations to the Commissioners under section 4(1) without the consent of the bishop of the other diocese.

(2) The powers conferred by subsection (1) may be used to include recommendations affecting more than one other diocese, and in that case the conditions aforesaid shall be complied with in relation to each of the other dioceses.

13 Joint pastoral committees.

(1) If it appears to the bishop of two or more diocese that a committee should be constituted for the purpose of considering the boundaries of the dioceses concerned and the pastoral arrangements in the areas adjacent thereto and of making recommendations (if the committee so decide) the implementing of which would require the exercise of powers under section 36, then, if the Dioceses Commission gives its consent, they may by an instrument sealed by each of them provide for constituting a committee in accordance with the next following subsection.

(2) The committee shall be known as the joint pastoral committee for the dioceses concerned, and shall comprise an equal number of members not exceeding five from each diocese, together with a member of the Dioceses Commission nominated by that Commission and a chairman appointed by the bishops jointly, or, in default of their agreement, by the Commissioners; and the members from any diocese shall include the bishop if he so desires and shall otherwise be nominated by the pastoral committee of the diocese concerned from among their members.

(3) Without prejudice to the provisions of section 16(2), the functions of the joint pastoral committee, and the powers exercisable in pursuance of their proposals under section 36, may be limited by the instrument aforesaid or any subsequent instrument sealed by the bishops of the dioceses concerned to a specified section or sections of the boundaries of the dioceses concerned or to an area or areas so specified, or to the consideration of proposals or questions so specified relating to those boundaries or areas, but any such limitation may be revoked or varied by a subsequent instrument sealed by the bishops of the dioceses concerned.

(4) Paragraphs 7 to 12 of Schedule 1 shall apply to a joint pastoral committee in like manner as they apply to the pastoral committee of a diocese, with the omission of the reference in paragraph 12 to the directions of the diocesan synod.

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(5) Any recommendations made by the joint pastoral committee shall be made to the bishops of the dioceses concerned, and section 3 shall apply to any such recommendations and their formulation and submission in draft proposals in like manner as it applies to the recommendations and draft proposals of the pastoral committee of a diocese, and the like proceedings may be taken on such proposals under sections 3 to 10 as may be taken on proposals formulated and submitted by a pastoral committee, subject to the following modifications:—

(a) anything required or authorised to be done by or to the bishop or registrar of the diocese shall be required or authorised to be done by or to the bishops or registrars of the dioceses concerned;

(b) the words in section 5(4) "(other than section 36)" shall be omitted and so much of that sub-section as relates to the preparation of a draft order shall not apply.

(6) If it appears to the bishops of the dioceses concerned that the purposes for which a joint pastoral committee was appointed have been sufficiently fulfilled, either by the making of a scheme or by a report or otherwise, or are unlikely to be fulfilled, they may by instrument sealed by them dissolve the committee.

Supplementary

14 Power of bishop to formulate and submit proposals on certain matters.

(1) If the bishop is of the opinion after consultation with the pastoral committee that proposals which could be implemented under Part II by a pastoral order **[**[F3]should be so implemented and the interested parties have consented to the proposals, then—

(a) the pastoral committee shall prepare a draft order to give effect to the proposals and submit it to the bishop for his approval;

(b) the bishop may, by applying his seal thereto, make the order under section 8(4); and

(c) the pastoral committee shall send to the Commissioners and the interested parties a copy of any order made under this subsection.**]**

(2) Proposals submitted under subsection (1) may provide for including among any benefices to be held in plurality one or more benefices from a diocese other than the diocese of the bishop submitting the proposals, but before seeking the consents of the interested parties in the other diocese, the said bishop shall obtain the consent of the bishop of the other diocese, who shall before giving it consult the pastoral committee of his diocese.

Textual Amendments

F3 Words in s. 14(1) substituted (1.1.2001) by virtue of 2000 Measure No. 1, s. 10, **Sch. 6 para. 2**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

15 Withdrawal of scheme or order at request of bishop.

If the bishop of the diocese concerned or, in a case to which section 12, section 13 or section 14(2) applies, the bishops of the dioceses concerned, requests or request the Commissioners not to proceed with any proposals, or to withdraw a draft scheme or

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order, the Commissioners shall comply with that request, but without prejudice to the making of fresh proposals;

Provided that such a request shall only be made after consultation with the pastoral committee or committees or (in a case to which section 13 applies) the joint pastoral committee of the diocese or dioceses concerned.

16 Supplementary powers of Commissioners and pastoral committees.

(1) At any time between the submission of proposals to the Commissioners under this Part and the making of a scheme by them or the making of an order by the bishop with respect to the proposals, the Commissioners may, without reference to any other person, make such amendments of the proposals or of any draft scheme or order prepared to give effect thereto as may seem to them necessary for the purpose of correcting any drafting mistake or omission.

(2) Nothing in this Part shall be construed as limiting in any way the powers of a pastoral committee or a joint pastoral committee or the Commissioners to consider any representations made to them by any person and to hold such consultations and interviews and make such inquiries as they think fit.

PART II

CONTENTS AND EFFECT OF PASTORAL SCHEMES AND ORDERS

Changes in benefices, parishes, extra-parochial places, archdeaconries and deaneries

17 Creation, alteration or dissolution of benefices, parishes and extra-parochial places.

(1) A pastoral scheme may provide for any of the following matters:—
- (a) for the creation, whether by union or otherwise, of new benefices or parishes;
- (b) for the dissolution of existing benefices or parishes;
- (c) for the alteration of the areas of existing benefices or parishes (including the transfer of a parish from one benefice to another) or the definition of their boundaries;
- (d) for the creation of new extra-parochial places, the incorporation in parishes of existing extra-parochial places, or the alteration or definition of the boundaries of existing extra-parochial places;

(2) A pastoral scheme shall name every new benefice and new parish created by the scheme, and may alter the name of any benefice or parish.

(3) A pastoral scheme providing for the union of two or more benefices may provide for uniting all the parishes within a new benefice, or for uniting some but not all those parishes, or may leave them as separate parishes.

(4) A pastoral scheme may provide for the creation of a new parish with full parochial status, notwithstanding that the parish so created will have no parish church when the provision comes into operation.

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(5) (a) A pastoral scheme may also authorise the making of sharing agreements on behalf of the Church of England in respect of a church or parsonage house which under the agreement will be in the joint ownership of that Church and any other Church.

(b) A pastoral scheme authorising the making of any sharing agreement shall specify the church or parsonage house to which it relates, and may specify terms and conditions subject to which the authorisation is given.

18 Holding of benefices in plurality.

(1) A pastoral scheme may provide for the holding in plurality of any two or more benefices subject to such conditions, if any, as may be specified in the scheme.

(2) The provisions of a pastoral scheme for the holding of benefices in plurality shall, unless the scheme otherwise provides, continue in force notwithstanding the occurrence of any vacancy:

Provided that, when the bishop gives notice of any vacancy or impending vacancy under **[**[F4]section 7 of the Patronage (Benefices) Measure 1986**]**, the said provisions may be terminated either by the bishop or by one of the interested parochial church councils, as follows:

(a) the bishop may state in the said notice that the said provisions are to be terminated and shall in that case serve the notice on all the persons who are or, on such termination, become the patrons of the benefices concerned and on the Commissioners and the said provisions shall cease to have effect on the vacancy or the service of the notice, whichever is the later; or

(b) any interested parochial church council may, within 28 days after the service of the said notice, pass a resolution that the said provisions are to be terminated, and shall forthwith notify the other interested parochial church councils, the Commissioners and all the persons who are or, on such termination, become the patrons of the benefices concerned, and the said provisions shall cease to have effect on the vacancy or the service of the notice, whichever is the later, and the bishop shall serve a fresh notice under **[**[F5]section 7**]**of the said Measure on all the councils and patrons concerned, which shall have effect in substitution for the previous notice.

(3) The termination of the provisions aforesaid under the last foregoing subsection shall be without prejudice to any provisions relating to the future exercise of the rights of patronage of the benefices concerned in the event of a renewal of the plurality.

(4) Except with the leave of the bishop, an incumbent of two or more benefices held in plurality may not resign any of those benefices without resigning the other or others; and, if leave is granted for such resignation and there are at least two other benefices, the resignation shall not affect the holding in plurality of those other benefices; but the Commissioners may by instrument make such consequential amendments of the pastoral scheme which provided for the holding of the benefices in plurality as they think necessary.

Textual Amendments

F4 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 17**(*a*)

Status: *Point in time view as at 01/02/2001.*
Changes to legislation: *Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F5 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 17**(*b*)

19 Archdeaconries and deaneries.

A pastoral scheme—

(a) may provide for creating, altering or dissolving an archdeaconry or deanery, and shall name any new archdeaconry or deanery created by the scheme;

(b) shall, where necessary, designate the archdeaconry or deanery to which any parish created or altered by the scheme is to belong;

(c) may alter the name of any archdeaconry or deanery.

Team and group ministries

20 Establishment of team ministries.

(1) A pastoral scheme may make provision for the establishment of a team ministry for the area of any benefice, and such a scheme shall provide—

(a) for the sharing of the cure of souls in that area by the incumbent of the benefice which, if it is not or would not otherwise be a rectory, shall be a rectory and one or more other ministers who shall have the title of vicar and a status equal to that of an incumbent of a benefice; and

(b) for the pastoral care of persons in that area by those who are to share the cure of souls therein together with all other persons who are from time to time authorised by **[**[F6]a provision contained in a licence or permission of the bishop**]** to serve in that area as members of the team.

The persons who are to share the cure of souls in the said area shall constitute the team chapter, and the team chapter together with the other persons referred to in the scheme by virtue of paragraph (b) of this subsection shall constitute the team.

(2) **[**[F7]The office of rector in a team ministry shall be held by each holder thereof for the specified term of years**]**; but the fact that the office is held for a term of years shall not affect its other attributes as a benefice and, in particular, the rector shall be a corporation sole and as such hold the property of the benefice during his term of office.

(3) The office of vicar in a team ministry shall be an ecclesiastical office constituted by the scheme and shall be held by each holder thereof for **[**[F8]the specified term of years**]**; and the vicar shall, during that term, have the same security of tenure of his office as an incumbent of a benefice, and shall not be affected by a vacancy in the benefice of the rector.

[[F9](3A) A person ordained to the office of deacon who is authorised under subsection (1)(b) by licence of the bishop—

(a) to serve in a team ministry as a member of the team; and

(b) for the purposes of the team ministry to perform, so far as consistent with the office of deacon, all such offices and services as may be performed by an incumbent,

shall serve for the specified term of years; and any such person shall, during that term, have the same security of tenure of his office as an incumbent of a benefice, and shall not be affected by a vacancy in the benefice of the rector.

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(3B) Any other person who is authorised under subsection (1)(b) by licence of the bishop to serve in a team ministry as a member of the team shall serve for a term of years to be specified in the licence, but no person shall be authorised as aforesaid unless he has been nominated for that purpose by the rector with the consent of a majority of the other members of the team and of each parochial church council concerned:

Provided that it shall not be necessary for the person concerned to be nominated for that purpose by the rector as aforesaid where that person is authorised to serve in a team ministry for a period immediately following a period of service in the team ministry.**]**

(4) A pastoral scheme establishing a team ministry may designate the first rector (who may be the existing incumbent) or the first holder of any office of vicar but, subject to any such provision,—

(a) the rector shall be presented or collated to the benefice, as the circumstances require, in accordance with paragraph 1 of Schedule 3 and the provisions of the scheme made thereunder;

(b) the vicar or vicars shall be chosen in accordance with paragraph 2 of that Schedule, shall be appointed to the office by licence of the bishop under seal and, unless the bishop otherwise directs, shall be publicly admitted in a church in the area.

(5) Where a pastoral scheme designates a person as the first holder of the office of vicar in a team ministry, the bishop shall offer to issue a licence appointing him to the office, and if that person does not accept the offer within one month after it is made to him, the designation shall cease to have effect.

(6) The term of years for which the office of rector or vicar in a team ministry **[**[F10]for which a deacon to whom subsection (3A) applies is authorised to serve in a team ministry**]** is held may, subject to any provision in a pastoral scheme, be extended by licence of the bishop under seal for a further term or further terms not exceeding, in the case of any one extension, the **[**[F11]specified term of years**]**, but any such extension shall be personal to the rector **[**[F12], vicar or deacon concerned**]** and not affect the term of office of subsequent holders.

(7) The rector in a team ministry shall have a general responsibility for the cure of souls in the area of the benefice, which may be subject to any special cure or special responsibility given to a vicar as hereinafter provided, and shall be responsible for the leadership of the team; and the scheme may make further provision as to the relationship of the rector and other members of the team ministry.

(8) A vicar in a team ministry shall by virtue of his office, but subject to his licence, have authority to perform in the area of the benefice all such offices and services as may be performed by an incumbent, and the scheme or, subject to the scheme, the bishop's licence may—

(a) assign to a vicar a special cure of souls in respect of a part of the said area and, if appropriate, the name of vicar of a church in that part;

(b) assign to a vicar a special responsibility for a particular pastoral function;

(c) provide that any such special cure or responsibility shall be independent of the rector's general responsibility;

(d) assign to a vicar a general responsibility to be shared with the rector for a cure of souls in the area as a whole;

and, if any such provision as aforesaid is made by the bishop's licence, it may (subject to the scheme) be varied or revoked, with the consent of the rector and the vicar

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concerned, by a subsequent licence under seal. **[**[F13]Provided that a woman who is a vicar in a team ministry shall not by virtue of this subsection have authority to preside at or celebrate the Holy Communion or pronounce the Absolution in a parish to which a resolution in the form set out as Resolution A in Schedule 1 to the Priests (Ordination of Women) Measure 1993 applies**]**

[[F14](8A) A pastoral scheme" establishing a team ministry or, subject to the scheme, the bishop's licence may assign to any member of the team who is not a member of the team chapter a special responsibility for pastoral care in respect of a part of the area of the benefice, so far as consistent with that member's office; and, if any such provision as aforesaid is made by the bishop's licence, it may (subject to the scheme) be varied or revoked by a subsequent licence under seal.**]**

(9) The Ecclesiastical Jurisdiction Measures 1963 and 1974 shall apply to vicars in a team ministry **[**[F15]and deacons in a team ministry to whom subsection (3A) applies**]** as if they were incumbents of the benefice for the area of which the team ministry is established.

[[F16](9A) The [M2]Ecclesiastical Offices (Age Limit) Measure 1975 shall apply to deacons in a team ministry to whom subsection (3A) applies as if they were vicars in the team ministry and, accordingly, no person shall be capable of being authorised by licence of the bishop to serve in a team ministry as such a deacon if at the time of the issue of the licence he has attained the age of seventy years.**]**

(10) The rector in a team ministry shall convene meetings of the team at regular intervals for the purpose of discussing and reaching a common mind on all matters of general concern or special interest to the team ministry and **[**[F17], unless a pastoral scheme otherwise provides, the rector shall preside, except that if he requests otherwise or is absent a deputy chairman appointed by the meeting shall preside.**]**

[[F18](10A) Any member of the team in a team ministry may, by notice in writing, request the rector to convene a team meeting under subsection (10) to be held within the period of twenty-eight days following the service of the notice; and, if the rector fails to comply with such a request, that member may himself convene the meeting.**]**

(11) Sub-paragraphs (1), (2), (3), (5) and (6) of paragraph 4 of Schedule 3 shall apply to parochial church meetings and parochial church councils in the area of a benefice for which a team ministry is established, and for the election of district church councils and churchwardens, and, if the area comprises more than one parish, for establishing a team council and empowering that council to exercise certain powers.

(12) Where two or more benefices are, or are to be, held in plurality, and a team ministry is established or is to be established for the area of one of those benefices, a pastoral scheme may provide for extending the operation of the team ministry, so long as the plurality continues, to the area of any other benefice so held, and subsections (7), (8) and (11) and the provisions of Schedule 3 therein referred to shall have effect as if the references to the area of the benefice were references to the combined area of the benefices concerned.

[[F19](13) Where the rector in a team ministry established for any benefice receives a statutory notice concerning ecclesiastical property in the benefice, he shall—

(a) keep every member of the team informed of matters arising from the notice;

(b) afford every member of the team an opportunity to express views thereon before taking any action in response to the notice; and

(c) have regard to those views before taking any such action.

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(14) Where a benefice for which a team ministry is established becomes vacant the bishop may appoint a person holding the office of vicar in the team ministry to act as rector in the team ministry for the purposes of subsections (3B), (7) and (10), and any person so appointed shall be deemed to hold the office of rector in the team ministry for the purposes of those subsections while the benefice remains vacant.

(15) In this section "specified term of years" in relation to a team ministry means such term of years as may for the time being be specified for the team ministry for the purposes of subsections (2), (3) and (3A) by a pastoral scheme or pastoral order; and in the case of a team ministry for which no term of years is so specified seven years shall be deemed to be the specified term of years for the purposes of those subsections.

(16) In this section—

"ecclesiastical property" has the same meaning as in section 12(3) of the [M3]Acquisition of Land Act 1981;

"statutory notice" means a notice given in pursuance of any enactment or of any instrument made under an enactment.**]**

Textual Amendments

F6 Words in s. 20(1)(b) substituted (1.5.1996) by 1995 No. 1, **s. 1(2)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F7 Words in s. 20(2) substituted (1.5.1996) by 1995 No. 1, **s. 1(3)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F8 Words in s. 20(3) substituted (1.5.1996) by 1995 No. 1, **s. 1(4)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F9 S. 20(3A)(3B) inserted (1.5.1996) by 1995 No. 1, **s. 1(5)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F10 Words in s. 20(6) inserted (1.5.1996) by 1995 No. 1, **s. 1(6)(a)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F11 Words in s. 20(6) inserted (1.5.1996) by 1995 No. 1, **s. 1(6)(b)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F12 Words in s. 20(6) inserted (1.5.1996) by 1995 No. 1, **s. 1(6)(c)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F13 Words in s. 20(8) inserted (1.2.1994) by 1993 Measure No. 2, s. 10, **Sch. 3 para. 6**; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York

F14 S. 20(8A) inserted (1.5.1996) by 1995 No. 1, **s. 1(7)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F15 Words in s. 20(9) inserted (1.5.1996) by 1995 No. 1, **s. 1(8)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F16 S. 20(9A) inserted (1.5.1996) by 1995 No. 1, **s. 1(9)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F17 Words in s. 20(10) substituted (1.5.1996) by 1995 No. 1, **s. 1(10)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F18 S. 20(10A) inserted (1.5.1996) by 1995 No. 1, **s. 1(11)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F19 S. 20(13)-(16) inserted (1.5.1996) by 1995 No. 1, **s. 1(12)(13)** (with s. 18, Sch. 2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

Marginal Citations

M2 1975 No. 2.

M3 1981 c. 67.

Status: *Point in time view as at 01/02/2001.*
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[F20 20A Team ministries established under 1968 Measure.

(1) Subject to the following provisions of this section, in the case of a team ministry established for the area of any benefice under a pastoral scheme made and confirmed by Order in Council under the M4 Pastoral Measure 1968 (referred to in this section as "a 1968 Measure team ministry"), the scheme shall be deemed to contain provisions of the kind referred to in section 20(1)(b), that is to say, provisions for the pastoral care of persons in that area by those who are to share the cure of souls therein together with all other persons who are from time to time authorised by licence or permission of the bishop to serve in that area as members of the team.

(2) The persons who are to share the cure of souls in the said area shall constitute the team chapter, and the team chapter together with the other persons deemed to be referred to in the scheme by virtue of subsection (1) shall constitute the team.

(3) The pastoral committee of each diocese shall, as soon as possible after the passing of the Team and Group Ministries Measure 1995, send to the secretary of the parochial church council of every parish comprised in the area of a benefice in the diocese for which a 1968 Measure team ministry is established a notice stating that written representations to the effect that subsections (1) and (2) should not apply to the team ministry may be made to the pastoral committee within the period of six months immediately following the date on which the notice was sent, and require him to affix a copy on or near the principal door of every church in the parish and every building licensed by the bishop for public worship in the parish.

(4) Subsections (1) and (2) shall not apply to any team ministry until the expiration of the period of six months immediately following the date on which the notice referred to in subsection (3) was sent to the parishes concerned and if, within the said period of six months, written representations as aforesaid with respect to a 1968 Measure team ministry are received by a pastoral committee—

(a) the pastoral committee shall forthwith refer the representations to the Commissioners, and the Commissioners shall then as soon as possible consider the representations and determine whether or not subsections (1) and (2) are to apply to the team ministry; and

(b) subsections (1) and (2) shall not apply to the team ministry unless and until the Commissioners determine that they are to apply to it.]

Textual Amendments

F20 S. 20A inserted (1.5.1996) by 1995 No. 1, **s. 2**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

Marginal Citations

M4 1968 No.1.

21 Establishment of group ministries.

(1) A pastoral scheme may provice for establishing for a group of benefices specified in the scheme a group ministry to which the following provisions shall apply:—

(a) each of the incumbents of the benefices in the group shall have authority to perform in the area of every such benefice all such offices and services as may be performed by the incumbent of that benefice;

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(b) the incumbent of any such benefice shall, in performing such offices and services in the area of another benefice, act in accordance with the directions of the incumbent of that other benefice;

(c) it shall be the duty of all the incumbents to assist each other so as to make the best possible provision for the cure of souls throughout the area of the group ministry.**[**[F21]Provided that a woman who is the incumbent of a benefice shall not by virtue of paragraph (a) above have authority to preside at or celebrate the Holy Communion or to pronounce the Absolution in a parish to which a resolution under section 3(1) of the Priests (Ordination of Women) Measure 1993 applies**]**

(2) Where a group ministry is established, the rights and duties aforesaid of each incumbent shall attach to his office, and accordingly, so long as the group ministry continues and the benefice is included therein, the incumbent shall not be entitled to resign or withdraw from those rights and duties, except by resigning the benefice, and on a vacancy the new incumbent shall be admitted to the benefice as an office in the group ministry, with the rights and subject to the duties thereof.

(3) A pastoral scheme establishing a group ministry may designate the first person (who may be the existing incumbent) to hold any benefice as a benefice in the group, but subject as aforesaid the incumbent of any such benefice shall be presented or collated to the benefice by the patron thereof, with the approval of the bishop (in the case of presentation) given in accordance with paragraph 3 of Schedule 3.

(4) The incumbents in a group ministry shall meet as a chapter for the purpose of discussing and reaching a common mind on all matters of general concern or special interest to the group ministry; and a pastoral scheme may provide for the chairmanship of the chapter and, in default of such provision, the members shall elect a chairman, normally for a term of three years; and the chairman shall convene meetings of the chapter at regular intervals and shall preside when present, and in his absence a deputy chairman appointed by the meeting shall preside.

(5) Paragraph 4(4) of Schedule 3 shall apply for the establishment of group councils and for conferring certain powers on such a council.

(6) A pastoral scheme may include in a group ministry a benefice for which a team ministry is established, and in that case the foregoing provisions of this section shall apply to all the vicars in the team ministry, as well as to the rector, in like manner as they apply to the incumbents of the other benefices in the group, except that directions to those incumbents in respect of their ministry in the area of the benefice for which the team ministry is established shall only be given by the rector.

(7) In this section, except subsections (2) and (3), "incumbent" includes a priest in charge.

Textual Amendments

F21 Words in s. 21(1) inserted (1.2.1994) by 1993 Measure No. 2, s. 10, **Sch. 3 para.7**; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York

22 Termination and alteration of team ministries and group ministries.

(1) Without prejudice to the generality of the powers of revocation and amendment of pastoral schemes, a pastoral scheme may—

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(a) terminate a team ministry by abolishing the offices of the vicars and restoring the rectory, if it is held for a term of years, to the status of a freehold office;

(b) alter a team ministry by abolishing one or more of the offices of the vicars or increasing the number of such offices;

[[F22](bb) alter a team ministry by providing for the right of presentation of the rector to be transferred to a patronage board constituted by the scheme or to the diocesan board of patronage;

(bbb) alter a team ministry by providing for the vicars therein to be chosen by the body entitled to present the rector, in accordance with paragraph 2(1) of Schedule 3;**]**

[[F23](c) with the consent of the rector or vicar concerned, change the office of a rector in a team ministry from a freehold office to an office held for the specified term of years or alter the term of years for which an office of rector or vicar in a team ministry is held to accord with the specified term of years;**]**

[[F24](cc) specify the term of years (for which certain members of a team are to hold office or serve) for the purposes of section 20(2), (3) and (3A);**]**

(d) terminate a group ministry by abolishing the rights and duties attaching to the benefices in the group under section 21;

(e) alter a group ministry by reducing or increasing or changing the benefices in the group;

(f) provide for such supplementary, consequential or transitional provisions as may be necessary or expedient, including in particular the provision relating to patronage required by paragraph 1(12) of Schedule 3 and provisions relating to the matters mentioned in paragraph 4 of the said Schedule.

(2) If a benefice for which a team ministry is established is dissolved by a pastoral scheme, the offices of the vicars in the team ministry (as well as the office of rector) shall cease to exist, without prejudice to the creation of such offices for any benefice created or altered by the scheme.

[[F25](3) In this section "specified term of years" has the same meaning as in section 20.**]**

Textual Amendments

F22 S. 22(1)(bb)(bbb) inserted (1.5.1996) by 1995 No. 1, **s. 3(2)(a)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F23 S. 22(1)(c) substituted (1.5.1996) by 1995 No. 1, **s. 3(2)(b)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F24 S. 22(1)(cc) inserted (1.5.1996) by 1995 No. 1, **s. 3(2)(c)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F25 S. 22(3) inserted (1.5.1996) by 1995 No. 1, **s. 3(3)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

Other provisions as to clergy and ministry

23 Status and duties of new benefices.

(1) Where a pastoral scheme provides for the union of two or more benefices one of which is a rectory, the new benefice created by the union shall be a rectory.

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(2) Where a pastoral scheme provides for the dissolution of a rectory, otherwise than as a result of a union of benefices, any new benefice created in consequence of the dissolution shall, if the scheme so provides, be a rectory.

(3) Save as aforesaid and except in the case of a benefice for which a team ministry is established, every new benefice created by a pastoral scheme shall be a vicarage.

(4) Any question under the foregoing provisions of this section whether a benefice is or was a rectory shall be determined by the Commissioners.

(5) The rector or vicar of a new benefice created by a pastoral scheme shall have the exclusive cure of souls in the area of the benefice, subject to the rights of the bishop of the diocese and, if there is a team or group ministry established for the benefice, to the rights and duties of the other members of the team or group, and shall accordingly have all the rights and duties appertaining to a benefice with cure of souls, and shall be a corporation sole.

(6) Where any office attaches to a benefice which is united with any other benefice or benefices by a pastoral scheme, that office shall attach to the new benefice created by the union unless the scheme otherwise provides.

24 Designation, selection and admission of certain incumbents.

(1) A pastoral scheme providing for the creation of a new benefice may provide for the designation or selection of the first incumbent of the new benefice and of the incumbent of any benefice concerned which falls vacant before the new benefice comes into being, and for restricting rights of presentation on any such vacancy.

(2) A pastoral scheme providing for the holding of two or more benefices in plurality may provide for the designation or selection of the incumbent who is to hold all the benefices concerned and of the incumbent of any such benefice falling vacant before all the said benefices come to be held in plurality, and for restricting rights of presentation on any such vacancy.

(3) Subsections (1) and (2) shall not apply to the first rector of a team ministry or the first incumbent of a benefice in a group ministry to whom sections 20(4) and 21(3) respectively apply.

(4) Paragraph 5 of Schedule 3 shall apply, with respect to the admission and induction of incumbents of benefices created or affected by pastoral schemes as therein mentioned.

25 Operation of schemes dispossessing clergy or dissolving archdeaconries or deaneries.

(1) A provision of a pastoral scheme which dissolves any benefice, archdeaconry or deanery or abolishes or results in the abolition of any office of vicar in a team ministry may be brought into operation without the assent of the incumbent, archdeacon, rural dean or vicar and without waiting for a vacancy in the benefice, archdeaconry, deanery or office.

(2) If, on the date of the coming into operation of any provision of a pastoral scheme—
   (a) for the holding of benefices in plurality; or
   (b) for the establishment of a team ministry for the area of a benefice; or
   (c) for the establishment of a group ministry for a group of benefices;

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any of the benefices concerned, or the benefice concerned, is not vacant, and the existing incumbent is not to hold the benefice by virtue of a designation by the scheme or any appointment under the scheme or this Measure, the benefice shall be deemed to be vacated on the said date.

(3) A pastoral scheme any provision of which will or may have the effect of vacating a benefice under the last foregoing subsection or of dissolving a benefice or archdeaconry which is not already vacant or of abolishing the office of a vicar in a team ministry which is not already vacant shall provide that the said provision is not to come into operation until a date at least six months after the date on which the scheme is confirmed by Order in Council under section 9 or, if the operation thereof is dependent on the happening of any event or contingency, until a date at least six months after the happening thereof:

Provided that—

(a) this subsection shall not apply to a benefice which is dissolved if the incumbent of that benefice is designated by the scheme as the first incumbent of any benefice created or affected by the scheme or as the first holder of any office of vicar in a team ministry established by the scheme, nor shall it apply to an office of vicar in a team ministry which is abolished if the holder of that office is designated by the scheme as the first incumbent of any benefice created or affected by the scheme or as the first holder of any office of vicar in a team ministry established by the scheme;

(b) the scheme may provide that if, owing to a subsequent vacancy, any such provision will not have the effect aforesaid, it shall come into operation either on the date of confirmation of the scheme or the happening of the event or contingency or on the vacancy, whichever last occurs.

(4) If, on the coming into operation of any provision to which the last foregoing subsection applies, the official residence of the incumbent, archdeacon or vicar concerned, being the parsonage house or the house held on trust for use as such residence, is not vested in the diocesan board of finance, the said board shall have a right to take proceedings to recover possession of the residence.

26 Compensation of clergy.

[[F26](1)**]** The provisions of Schedule 4 shall have effect for the purpose of conferring rights to compensation on incumbents of benefices, vicars in team ministries and archdeacons whose benefices or offices are dissolved, abolished, vacated or resigned in the circumstances specified in the said Schedule, and of determining claims to such compensation, and for other matters relating thereto.

[[F27](2) Subsection (1) (and Schedule 4) shall have effect in relation to a deacon to whom section 20(3A) applies as it has effect in relation to a vicar in a team ministry.**]**

Textual Amendments

F26 S. 26 renumbered (1.5.1996) as subsection (1) thereof by 1995 No. 1, **s. 4(2)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

F27 S. 26(2) inserted (1.5.1996) by 1995 No. 1, **s. 4(3)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

Status: *Point in time view as at 01/02/2001.*
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Churches, churchyards and parsonage houses

27 Provisions as to parish churches.

(1) A pastoral scheme may, in relation to any parish, including a new parish to be created by the scheme or a parish the area of which is to be altered thereby—

(a) designate as the parish church or as an additional parish church, or as parish churches or additional parish churches, any church or churches in the parish;

(b) provide for a church in the parish which immediately before the scheme comes into operation is a parish church to cease to be a parish church;

(c) provide for a new church and for it to become, after its approval by the **[**[F28]bishop, after consultation with the diocesan advisory committee and the pastoral committee**]** as suitable to be a parish church and its consecration, the parish church, or an additional parish church, of the parish either in substitution for an existing parish church or otherwise.

[[F29](d) require the bishop to notify the Commissioners of his approval of a building or church as suitable to be a parish church and of its consecration.**]**

(2) The designation by a pastoral scheme as a parish church of a building which immediately before the scheme comes into operation is not a parish church shall not take effect unless and until it has been approved by the **[**[F30]the bishop, after consultation with the diocesan advisory committee and the pastoral committee,**]** as suitable to be a parish church and, if necessary, the building has been consecrated.

(3) If the area of a parish is altered by a pastoral scheme but no provision with respect to the churches in that area is made by the scheme, every church in that area shall have the same status on and after the date on which the scheme comes into operation as it had immediately before that date.

(4) Where, in a parish which has no parish church, a church is approved by the **[**[F30]the bishop, after consultation with the diocesan advisory committee and the pastoral committee,**]** as suitable to be a parish church and is consecrated, it shall become the parish church of that parish.

(5) Where by virtue of a designation made by a pastoral scheme or otherwise a parish has more than one parish church, the following provisions shall apply—

(a) the parishioners of the parish shall have the same rights of worship in each of the parish churches;

(b) marriages may be solemnized in any of the parish churches, and the bishop may give directions under section 23 of the [M5]Marriage Act 1949, as extended by paragraph 14(4) of Schedule 3 to this Measure, with respect to the publication of banns and solemnization of marriages in the parish churches;

(c) burial rights shall not be affected by the designation, but shall be governed by paragraph 15 of Schedule 3;

(d) the powers, duties and liabilities of the parochial church council of the parish shall extend to each of the parish churches;

(e) two churchwardens shall be appointed for each of the parish churches, and the [M6]Churchwardens (Appointment and Resignation) Measure 1964 shall apply separately to each pair of churchwardens, but all the churchwardens shall be churchwardens of the whole parish, except so far as they may arrange to perform separate duties in relation to the several parish churches;

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and the pastoral scheme may make such other adaptations or modifications of enactments or Measures relating to parish churches or churchwardens (including the foregoing provisions) as may be necessary or expedient.

(6) It shall be lawful in any church designated by a pastoral scheme as a parish church or becoming a parish church under this section, to publish banns of matrimony, solemnize marriages and perform all other such ecclesiastical offices as may be performed in a parish church.

(7) A pastoral scheme may provide for determining claims to sittings and other claims in respect of a church designated by a pastoral scheme as a parish church or becoming a parish church under this section.

(8) A pastoral scheme may provide for transferring to a church designated by such a scheme as a parish church or becoming a parish church under this section register books or records from any other church ceasing to be a parish church or otherwise affected by or in pursuance of that or any other pastoral scheme or for those books or records to be dealt with as the bishop of the diocese in which that other church is, may direct under section 19 of the [M7]Parochial Registers and Records Measure 1978.

In this subsection "register books" and "records" have respectively the same meanings as in the said Measure of 1978.

Textual Amendments

F28 Words in s. 27(1)(c) substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 3(a)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

F29 S. 27(1)(d) inserted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 3(a)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

F30 Words in s. 27(2)(4) substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 3(b)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

Marginal Citations

M5 1949 c. 76.

M6 1964 No. 3

M7 1978 No. 2

28 Redundant churches.

(1) A pastoral scheme may make a declaration of redundancy in respect of—

(a) a church which is not required as a parish church or chapel of ease or will cease to be so required as a result of any provision of the scheme; or

(b) any part of a church (being a parish church or chapel of ease) which is no longer required for use as a part of the church or will cease to be so required as a result of any provision of the scheme;

and in that case provision may be made in accordance with Part III, either by the pastoral scheme (in the circumstances specified in sections 46 and 47) or by a scheme made under Part III, for the use, the care and maintenance, the vesting in the diocesan board of finance or the demolition of the church or part of a church to which the declaration relates (in this Measure referred to as the "redundant building"), and also for dealing with a churchyard or other land annexed or belonging to the church.

Status: *Point in time view as at 01/02/2001.*
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(2) A declaration of redundancy may be made as aforesaid in respect of a parish church notwithstanding that the parish will have no parish church when the declaration takes effect, and the status of the parish shall not be affected by the lack of a parish church.

(3) As from the date when a declaration of redundancy takes effect in respect of the whole of a church, the church shall be closed for public worship except as may be provided under Part III.

29 Places of worship.

(1) Where a parish has no church, the bishop shall make provision for public worship according to the rites and ceremonies of the Church of England by licensing one or more buildings or parts of buildings [F31]. . . for such worship.

(2) The bishop may designate any church in any parish, other than a parish church, or any building or part of a building licensed for public worship in any parish, as a parish centre of worship and thereupon, but subject to subsections (3) and (4), for the purposes of—

(a) the [M8]Marriage Act 1949 and paragraph 14 of Schedule 3 to this Measure.

(b) any other enactment (including this Measure), or rule of law requiring or authorising any service or ceremony to be held or notices to be affixed or other thing done in or at the parish church or a parish church, and

(c) section 27(5)(e),

a church, building or part of a building so designated shall be deemed, while the designation is in force, to be a parish church.

(3) Where a church, building or part of a building in a parish has been so designated and the parish has no parish church, then, if the persons to be married so elect, they may proceed under sections 6 and 15 of the Marriage Act 1949 (which contain provisions whereby parishes in which there is no parish church are deemed to belong to adjoining parishes) as if the church, building or part had not been so designated; and this subsection shall have effect notwithstanding that there is in the parish a church or chapel licensed for marriages or a church or chapel in which divine service is usually solemnized every Sunday.

(4) A building or part of a building so designated shall not by virtue only of the designation be subject to the faculty jurisdiction, but without prejudice to the power of the bishop under section 6 of the [M9]Faculty Jurisdiction Measure 1964 to direct that it shall be so subject.

(5) A designation under this section may be revoked by the bishop, but without prejudice to the continuation in force of any licence thereunder, if the bishop thinks fit.

(6) Any such designation or revocation thereof shall be under seal and shall be registered in the registry of the diocese, and the registrar of the diocese shall give public notice thereof in one or more newspapers circulating in the locality.

Textual Amendments

F31 Words in s. 29(1) omitted (1.6.1992) by virtue of Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para.19**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

Status: *Point in time view as at 01/02/2001.*
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Marginal Citations

M8 1949 c. 76.

M9 1964 No. 5.

30 Use of certain churchyards and burial grounds.

(1) Subject to the following provisions of this section, a pastoral scheme may provide for the appropriation of the whole or any part of—

(a) a churchyard or other land annexed or belonging to a church or to a parish church cathedral within the meaning of the [M10]Cathedrals Measure 1963, or

(b) any burial ground vested in the incumbent of the benefice but not annexed or belonging to a church, or

(c) any other burial ground which is subject to the jurisdiction of the bishop of any diocese,

to such use or uses as may be specified or generally described in the scheme, and the scheme may provide for the disposal of any such property for such use or uses or without limitation of use.

(2) Subsection (1) shall not apply to a churchyard or other land annexed or belonging to a church to which a declaration of redundancy relates unless the scheme by which provision was made for the use, the care and maintenance, the vesting in the diocesan board of finance or the demolition of the church contained no provision for dealing with the land which is to be the subject of the proposed scheme.

(3) In the case of a churchyard or other land annexed or belonging to a church or a burial ground adjacent to a church, the pastoral scheme shall make such provision as appears to the bishop and the Commissioners to be desirable for safeguarding the use and amenities of the church or to be necessary for preserving a right of access to any grave in that land or burial ground.

(4) A scheme providing for the matters aforesaid shall have effect notwithstanding section 3 of the [M11]Disused Burial Grounds Act 1884 (which prohibits the erection of buildings on 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 to which the provisions apply during the period of fifty years immediately before the making of the scheme; or

(b) that no relative or personal representative of any deceased person buried in the land during the said period has objected to the draft scheme, or all such objections have been withdrawn;

and the said section shall otherwise apply.

(5) Any scheme providing for the matters aforesaid may also make provision for the vesting of the property and for applying in relation thereto, with such modifications as may be specified in the scheme, any of the provisions of Part III relating to the appropriation, disposal and vesting of property, rights of way and other easements, the removal of the legal effects of consecration and the imposing of covenants; and the provisions of Part III relating to the disposal of human remains shall apply to the property.

(6) In this section "burial ground" means any land set apart and consecrated for the purpose of burials whether or not burials have taken place therein.

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Marginal Citations
M10 1963 No. 2.
M11 1884 c. 72.

31 Parsonage houses.

(1) A pastoral scheme may provide for any of the following matters—

(a) the designation of any house belonging to a benefice as the place of residence of the incumbent of any benefice created or affected by the scheme or of the incumbent of any benefices to be held in plurality, by or by virtue of the scheme;

(b) the designation of any house as the place of residence of any vicar in a team ministry established for the area of any benefice by or by virtue of the scheme;

(c) the transfer to the incumbent of any benefice as his official residence, or as a site therefor, of a parsonage house, part of a parsonage house, a house situated on diocesan glebe land, any parsonage land or any diocesan glebe land;

(d) the transfer of a parsonage house, part of a parsonage house or any parsonage land to the diocesan board of finance to be held by the board as part of the diocesan glebe land of the diocese or for disposal in accordance with paragraph 9 of Schedule 3 or for use for parochial or diocesan purposes.

(2) The power under paragraph (a) or (b) of the preceding subsection to designate a house as the place of residence of an incumbent or a vicar in a team ministry shall be without prejudice to the subsequent exercise of any power to dispose of the house or to the subsequent exercise by the bishop of any power he may have to give directions as to the place where the incumbent or vicar is to reside.

(3) Where in exercise of the power under paragraph (d) of subsection (1) a parsonage house or part thereof is to be transferred to the diocesan board of finance, but any land held with that house is not to be so transferred, the pastoral scheme which provides for the transfer may also provide that that land shall be deemed to be parsonage land for the purposes of the [M12]Endowments and Glebe Measure 1976.

(4) In this section "diocesan glebe land" and "parsonage land" have the same meanings respectively as in the said Measure of 1976.

Marginal Citations
M12 1976 No. 4.

32 Patronage

(1) A pastoral scheme may, with the consent of the **[**[F32]registered patron**]**or patrons concerned and of the person to whom the rights of patronage are to be transferred, provide for the exchange or transfer of rights of patronage of any benefice or church, whether or not that benefice or church is otherwise affected by the scheme.

(2) A pastoral scheme creating any new benefice may provide for vesting the patronage of the benefice in a patron or patrons and, where necessary, for determining the manner in which the rights of patronage are to be exercised.

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[[F33](3) Without prejudice to the generality of subsections (1) and (2) above, a pastoral scheme (whether it relates only to an existing benefice or provides for the creation of a new benefice) may with the consent of the registered patron or patrons of any benefice affected by the scheme provide for the transfer of existing rights of patronage to, or for the vesting of new rights of patronage in, a special patronage board constituted by the scheme.

(3A) A special patronage board constituted by a pastoral scheme by virtue of subsection (3) shall consist of such members as the scheme may provide, and the scheme may designate the member who is to be chairman of the board; and the following provisions of paragraph 1 of Schedule 3 shall apply to such a patronage board as they apply to a patronage board constituted by a pastoral scheme establishing a team ministry, that is to say—

(a) sub-paragraph (6) so far as it relates to any member of a board;

(b) sub-paragraph (7) so far as it relates to the entitlement to votes of any member of a board;

(c) sub-paragraph (8), and

(d) sub-paragraph (10) so far as it relates to the transfer of the rights to be members of a board.**]**

(4) A pastoral scheme providing for the holding of two or more benefices in plurality may provide for the exercise of the rights of patronage of those benefices, including the exercise thereof on a renewal of the said provision for plurality.

(5) Where any benefice is dissolved by a pastoral scheme, or a chapel of ease becomes a parish church by virtue of a pastoral scheme, the rights of patronage of the benefice and any rights of patronage of the chapel of ease shall cease to exist.

(6) In the exercise of the powers conferred by the foregoing provisions of this section regard shall be had to the interests of persons whose rights of patronage cease to exist by virtue of a pastoral scheme and the interests of patrons of benefices to be held in plurality, but it shall not be necessary for the scheme to provide, in cases where there are pastoral or practical objections, for conferring new patronage rights on the first-mentioned persons or on all of them or for sharing the exercise of the patronage rights of the benefices to be held in plurality among the patrons of those benefices or all of them.

(7) Any provision with respect to rights of patronage made by or by virtue of the foregoing provisions of this section shall have effect subject to any provision made by virtue of section 24 with respect to the incumbents and vacancies therein mentioned.

(8) A pastoral scheme providing for the vesting or exercise of rights of patronage under subsection (2) or subsection (4) may also, in appropriate cases, provide for applying to those rights any trusts formerly applicable to rights extinguished or altered by or by virtue of the scheme.

(9) Nothing in the foregoing provisions of this section shall affect the provisions of sections 20(4) and 21(3) and paragraphs 1, 2, and 3 of Schedule 3, and accordingly any rights of patronage exchanged or transferred or created by or under this section shall, on the establishment of a team or group ministry for the benefices concerned, have effect subject to the said provisions.

(10) . . . . . [F34]

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Textual Amendments

F32 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), **s. 29(1)**

F33 S. 32(3)(3A) substituted for S. 32(3) by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), **s. 29(1)**

F34 S. 32(10) repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(2), **Sch. 5**

Endowments, stipends and other remuneration

33 Provisions as to endowments, income, etc.

(1) A pastoral scheme may provide, on such terms and conditions as may be specified, that the whole of the income of the endowments of a benefice, or a specified annual amount thereof, or the excess over a specified amount thereof, shall be paid to the income account of the diocesan stipends fund.

For the purposes of this subsection two or more benefices which are held in plurality or are to be held in plurality by virtue of the scheme may be treated as if they constituted one benefice and as if the aggregate of the income of their endowments were the income of the endowments of that one benefice.

(2) The powers conferred by subsection (1) shall only be exercised with respect to the income of the endowments of any benefice (not being a benefice which ceases to exist by virtue of the scheme) in the following cases:—

(a) where the provision is to take effect during a vacancy or on the occurrence of a vacancy in the benefice; or

(b) where the incumbent of the benefice consents; or

(c) where the aggregate of the income derived from the following sources, namely, the income of the endowments of the benefice (disregarding any gift or bequest made during the existing incumbency), any guaranteed annuity payable in respect of the benefice under the [M13]Endowments and Glebe Measure 1976 and any personal grant to which the incumbent of the benefice is entitled under that Measure, is not to be reduced below the amount thereof when the incumbent was admitted; or

(d) where the benefice is to be held in plurality and the provision will only operate during the continuance of the plurality;

and the Commissioners shall in every case satisfy themselves that the income derived from the sources mentioned in paragraph (c) above is sufficient to support the incumbent.

(3) Any provision made under subsection (1) may be revoked, or may be varied so as to reduce the amount of the income payable thereunder, by the Commissioners with the consent of the bishop and the diocesan board of finance.

(4) Where a benefice is dissolved by a pastoral scheme, in consequence of a union of benefices, and the Commissioners hold moneys for expenditure on capital purposes in connection with a parsonage house for the benefice or moneys arising from or in connection with the disposal of a parsonage house of the benefice, the [M14]Parsonages Measure 1938 shall apply to all such moneys as it applies to moneys arising from the sale of property of the benefice under the said Measure, and shall have effect with the modification that references to the benefice for which the money was held or to which

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the property belonged shall be construed as references to the new benefice created by the union.

(5) Notwithstanding anything in section 5 of the Parsonages Measure 1938 (application of moneys derived from sale, etc. of benefice property), a pastoral scheme may provide that any moneys arising from any sale or exchange under that Measure of any part of the property of a benefice specified in the scheme, or so much of those moneys as may be so specified, shall—

(a) be held by the Commissioners for the benefit of any other benefice so specified; or

(b) be paid into the capital account of the diocesan stipends fund; or

(c) be paid into the diocesan pastoral account; or

(d) be applied towards the provision, restoration, improvement or repair of a church or a place of worship within the meaning of section 46 or a parsonage house or a house for a vicar in a team ministry or an assistant curate.

Marginal Citations

M13 1976 No. 4.

M14 1938 No. 3.

Provisions as to sinecures

34 Sinecure rectories and chapelries.

A pastoral scheme may provide for merging with a benefice any sinecure rectory, or any office of minister of a church or chapel without cure of souls, and may make further provision for any of the matters for which provision is or may be made by or under this Part in relation to a benefice, and in particular—

(a) for the vesting of any such church or chapel and its use either as a parish church or chapel of ease, or for making a declaration of redundancy in respect thereof;

(b) for the transfer, vesting or disposal of rights of patronage, endowments or other property relating or belonging to any such rectory or office, on such terms as may be provided by the scheme.

Pastoral schemes affecting more than one diocese

35 Limited extension of pastoral schemes to other dioceses.

(1) A pastoral scheme may, if the conditions specified in section 12 are complied with, apply to a diocese other than the diocese in which the proposals for the scheme originated, to the extent that the scheme may provide—

(a) for a union of benefices or parishes comprising one or more benefices or parishes from each of the two dioceses;

(b) for creating a new benefice (otherwise than by union) for an area comprising areas from the two dioceses;

(c) for the transfer of a benefice from the diocese in which it is to the other diocese;

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(d) for the transfer of a parish from a benefice in one diocese to a benefice in the other;

(e) for creating a new extra-parochial place comprising areas from the two dioceses or transferring an extra-parochial place from one diocese to the other, whether by means of incorporation in a parish or otherwise;

(f) for altering the boundaries between a parish or extra-parochial place in one diocese and a parish or extra-parochial place in the other;

(g) for the holding in plurality of benefices comprising one or more benefices from each diocese;

(h) for establishing a group ministry for a group of benefices comprising one or more benefices from each diocese;

and may also provide, in relation to any benefice, parish or extra-parochial place affected by such a provision as aforesaid, for any of the matters for which provision may be made by a pastoral scheme in relation to benefices, parishes and extra-parochial places wholly comprised in one diocese, subject to such modifications as may be necessary or expedient in consequence of the application of the scheme to another diocese.

(2) The powers conferred by the foregoing subsection may be exercised in relation to more than one diocese (other than the diocese in which the proposals for the scheme originated), and in that case shall include power to create a benefice or parish (by union or otherwise) or an extra-parochial place comprising benefices, parishes or areas from all the dioceses concerned, or to alter a benefice, parish or extra-parochial place so as to comprise areas from all those dioceses, or to establish a group ministry for benefices from all those dioceses.

(3) A pastoral scheme to which this section applies shall, in the case of any benefice, parish or extra-parochial place which includes areas from two or more dioceses, allocate it to such one of those dioceses and to such archdeaconry and deanery in that diocese as the scheme may designate.

(4) A pastoral scheme providing for establishing a group ministry for benefices from two or more dioceses shall make such transfers of benefices from one diocese to another as may be necessary to bring the whole group within the diocese designated by the scheme.

36 Schemes for the alteration of diocesan boundaries.

Where a pastoral scheme is made in pursuance of proposals formulated by a joint pastoral committee appointed under section 13—

(a) the scheme may provide for altering the boundaries between any of the dioceses represented by the joint pastoral committee, and for transferring any benefices, parishes or extra-parochial places affected by the alteration from one diocese to another, but not so as to create or dissolve any diocese;

(b) the scheme may also provide, as respects such areas of the said dioceses affected directly or indirectly by the alteration of boundaries as the scheme may specify, for any of the matters for which a pastoral scheme may provide with respect to an area in one diocese, subject to such modifications as may be necessary or expedient by reason of the application of the scheme to more than one diocese;

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Provided that the powers conferred by this section shall be subject to any limitation imposed by instrument sealed by the bishops of the dioceses concerned under section 13, in force at the time when the scheme is made by the Commissioners.

Pastoral orders

37 Powers exercisable by pastoral order.

[[F35](1)**]**The following powers exercisable under the foregoing provisions of this Part by a pastoral scheme shall also be exercisable by a pastoral order, that is to say:—

(a) the power to alter the areas of benefices or parishes or to define their boundaries under section 17(1)(c) or to alter or define extra-parochial places under section 17(1)(d), but not so as to transfer from any benefice or parish any church used for public worship;

(b) the power to alter the name of any benefice or parish under section 17(2);

(c) the power to provide for the holding in plurality of any two or more benefices (subject to such conditions, if any, as may be specified) under section 18;

(d) the power to provide for creating, altering or dissolving, for designating, and for naming or altering the name of, an archdeaconry or deanery under section 19;

[[F36](e) the power to—

(i) assign a special cure of souls or other responsibilities to vicars in team ministries under section 20(8);

(ii) assign to any member of a team who is not a member of the team chapter a special responsibility for pastoral care, so far as consistent with that member's office, under section 20(8A);

(iii) specify the term of years (for which certain members of a team are to hold office or serve) for the purposes of section 20(2), (3) and (3A) under section 22(1)(cc);

(iv) alter a team ministry or change the office of a rector or vicar in a team ministry under section 22(1)(b) or (c);

(v) alter a team ministry under section 22(1)(bb) or (bbb);

(vi) alter a group ministry under section 22(1)(e);

(vii) provide for supplementary, consequential or transitional matters under section 22(1)(f);**]**

(f) the power under section 24(2) to provide for the designation or selection of incumbents of benefices to be held in plurality;

(g) the powers under section 27(1) to make provision with respect to churches;

(h) the powers under section 31 as respects parsonage houses and the residences of vicars in team ministries, except so far as they relate to a new benefice;

(i) the power under section 32(1) to provide for the exchange or transfer of rights of patronage of any benefice or church and the power to provide for the exercise of patronage of benefices held in plurality under section 32(4);

(k) the power to provide for the payment to the income account of the diocesan stipends fund of the income of the endowments of a benefice under section 33(1);

Status: *Point in time view as at 01/02/2001.*
Changes to legislation: *Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(l) the power under section 33(5) to make provision as to the manner in which moneys arising from any sale or exchange of the property of a benefice under the [M15]Parsonages Measure 1938 are to be dealt with;

(m) the powers under section 35 so far as they relate to altering the boundaries between a parish or extra-parochial place in one diocese and a parish or extra-parochial place in another, but not so as to transfer from any benefice or parish any church used for public worship, and the powers under that section so far as they relate to the holding of benefices in plurality, subject to the modification that the reference to the conditions specified in section 12 shall include a reference to the condition specified in section 14(2);

and accordingly the said provisions of this Part, and also section 18(4), section 27(6), (7) and (8) and section 33(2) and (3), shall apply, subject to any limitations specified above, to pastoral orders as they apply to pastoral schemes:

Provided that the powers specified in paragraphs (c), (d) and (e) of this section shall not include power to require any benefice to be vacated under section 25(2), or to provide for dissolving any archdeaconry or abolishing any office of vicar in a team ministry except with the assent of the archdeacon or vicar or on a vacancy.

[[F37](2) In the case of a team ministry established for the area of any benefice under a pastoral scheme made and confirmed by Order in Council under the Pastoral Measure 1968, being a team ministry in respect of which the Commissioners have determined under section 20A that subsections (1) and (2) of that section are not to apply, a pastoral order may apply those subsections to the team ministry.**]**

Textual Amendments

F35 S. 37 renumbered (1.5.1996) as subsection (1) thereof by 1995 No. 1, **s. 5(2)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

F36 S. 37(1)(e) substituted (1.5.1996) by 1995 No. 1, **s. 5(3)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

F37 S. 37(2) inserted (1.5.1996) by 1995 No. 1, **s. 5(4)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

Marginal Citations

M15 1938 No. 3.

Supplementary

38 Supplementary provisions of pastoral schemes and orders.

(1) A pastoral scheme or pastoral order may contain such supplementary or consequential provisions as appear to the Commissioners, with the agreement of the bishop or bishops concerned given after consultation with any pastoral committee (including a joint pastoral committee) concerned, to be necessary or expedient for giving effect to the purposes of the scheme or order.

(2) A pastoral scheme or order shall, where the Commissioners consider it appropriate, have annexed thereto a map or plan showing the changes made by the scheme or order.

(3) A pastoral scheme or order may provide that the scheme or order, or any provisions thereof, shall come into operation on a specified date, or on the happening of a

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specified event or contingency, and different dates, events or contingencies may be specified for different provisions.

39 Amendment and revocation of pastoral schemes and orders.

(1) A pastoral scheme may be amended or revoked by a subsequent pastoral scheme or may, in respect of matters falling within the powers exercisable by a pastoral order, be amended by a pastoral order.

(2) A pastoral order may be amended or revoked by a subsequent pastoral order or pastoral scheme.

(3) If an amending pastoral scheme or order involves the exercise of powers under section 35 or section 36, the conditions mentioned in those sections or in section 37(m), as the case may require, shall be complied with.

(4) An amending pastoral scheme or order may provide for any matters for which provision could have been made by the scheme or order to be amended.

(5) A pastoral scheme or order, or any provision thereof, may be revoked or amended under this section before it comes into operation.

40 Application of Schedule 3 containing supplementary provisions and powers.

Schedule 3 which—

(a) consists mainly of provisions applying generally by virtue of this Measure to such matters arising out of pastoral schemes and orders as are therein mentioned; and

(b) includes some provisions conferring supplementary powers exercisable by pastoral schemes and orders in relation to such matters,

shall have effect, but without prejudice to the powers conferred by section 38(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;

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(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.

(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 **[**[F38]reporting**]** 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 **[**[F39]; and in this subsection "reporting year" means the period of twelve months beginning on a date to be determined by the Board with the agreement of the Commissioners**]**.

Textual Amendments

F38 Word in s. 41(8) substituted (1.4.1994) by 1994 No. 1, **s. 1(a)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York

F39 Words in s. 41(8) inserted (1.4.1994) by 1994 No. 1, **s. 1(b)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York

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

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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.

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 [M16]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
M16 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.

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(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;

[[F40](aa) to acquire property (including rights of way) where the Trust considers that to do so would assist it in the exercise of its powers under paragraph (a);**]**

(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;

[[F41](bb) to let any property vested in the Fund on such terms (including terms as to the purposes for which it may be used) as the Commissioners may approve, after consultation with the bishop and the Advisory Board, being terms which the Commissioners consider reasonable and proper having regard to all the circumstances;

(bbb) in respect of any property which the Fund has let or is proposing to let under paragraph (bb), to carry out such works as the Fund considers desirable, after consultation with the Advisory Board;**]**

(c) to charge entrance fees for admission to any **[**[F42]property vested in the Fund**]**, 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;

[[F43](cc) to assist, on payment of a fee, in the management of any place of Christian religious worship (not being a church or part of a church) which is vested in any body entrusted with functions similar to those of the Fund;**]**

(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.

[[F44](6) The powers to invest any such sums are—

(a) power to invest in investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (as restricted by sections 4 and 5 of that Act); and

(b) power to invest in the investments referred to in paragraph 21(1)(e) and (f) of the Schedule to the Church Funds Investment Measure 1958.**]**

[[F45](7) The powers conferred on the Redundant Churches Fund by subsection (5)(b) and (bb) may be exercised so as to permit the use of a church or part of a church vested in the Fund for such worship (including worship by persons belonging to other Christian Churches) as may be authorised by the bishop after consulting the incumbent or priest in charge of the benefice in the area of which the church is situated.**]**

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[[F46](7A) The terms of a lease granted under subsection (5)(bb) in respect of any property may provide that the property shall not be subject to the legal effects of consecration during the currency of the lease, notwithstanding the provisions of section 61(2).

(7B) Where any such property has been let under subsection (5)(bb) and the terms of the lease provide to the effect that no alteration may be made thereto without the approval of the Redundant Churches Fund, its approval shall only be given after consultation with the Advisory Board.

(7C) A statement in a document signed by the secretary or other duly authorised officer of the Commissioners that the Commissioners have approved the terms of any lease granted under subsection (5)(bb) which is specified in the document shall be conclusive evidence that those terms have been so approved.

(7D) As a condition of giving their approval to the terms of any lease under subsection (5)(bb) the Commissioners may require the Redundant Churches Fund to include in the lease such provisions, if any, as appear to them to be necessary to give effect to those terms.**]**

(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. [F47]. . .

[[F48](9A) The Redundant Churches Fund shall give to the Commissioners and to the Advisory Board such information and advice as the Commissioners or the Advisory Board may, from time to time, require about—

(a) the Fund's financial position generally; and

(b) the estimated cost of repairing and thereafter maintaining any church or part of a church which is proposed to be vested in the Fund or which the Commissioners consider is likely to be proposed for vesting in the Fund.**]**

(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 **[**[F49]funding period**]** 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 **[**[F50]accounting**]** 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 **[**[F51];and in this subsection "accounting year" means the period of twelve months beginning on a date to be determined by the Fund with the agreement of the Commissioners**]**.

(12) The Commissioners shall transmit copies of the said accounts and report to the Secretary of State [F52]. . . 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.

Status: *Point in time view as at 01/02/2001.*
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Textual Amendments

F40 S. 44(5)(aa) inserted (1.9.1995) by 1995 No. 2, **s. 11(b)**; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York.

F41 S. 44(5)(bb)(bbb) inserted (1.4.1994) by 1994 No. 1, **s. 2(2)(a)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F42 Words in s. 44(5)(c) substituted (1.4.1994) by 1994 No. 1, **s. 2(2)(b)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F43 S. 44(5)(cc) inserted (1.4.1994) by 1994 No. 1, **s. 2(2)(c)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F44 S. 44(6) substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. III para. 55** (with s. 35); S.I. 2001/49, **art. 2**

F45 S. 44(7) substituted (1.4.1994) by 1994 No. 1, **s. 2(3)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F46 S. 44(7A)-(7D) inserted (1.4.1994) by 1994 No. 1, **s. 2(4)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F47 Words in s. 44(9) repealed (1.4.1994) by 1994 No. 1, **s. 2(5)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F48 S. 44(9A) inserted (1.4.1994) by 1994 No. 1, **s. 2(6)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F49 Words in s. 44(10) substituted (1.4.1994) by 1994 No. 1, **s. 2(7)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F50 Word in s. 44(11) substituted (1.4.1994) by 1994 No. 1, **s. 2(8)(a)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F51 Words in s. 44(11) inserted (1.4.1994) by 1994 No. 1, **s. 2(8)(b)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F52 Words in s. 44(12) repealed (1.4.1994) by 1994 No. 1, **s. 2(9)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

Modifications etc. (not altering text)

C3 S. 44 amended (1.4.1994) by 1994 No. 1, **s. 13(2)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

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, 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.

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(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 [M17]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 [M18]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)

C4 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

M17 1947 No. 2.

M18 1946 c. 36.

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—

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(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.

(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 [M19]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

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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 [M20]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

M19 1969 c. 38.

M20 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

[[F53](a) 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 England; and

(b) 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.**]**

(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.

Status: *Point in time view as at 01/02/2001.*
Changes to legislation: *Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F53 Words in s. 47(2) substituted (1.4.1994) by 1994 No. 1, **s. 3**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

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;

(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

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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 [M21]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

M21 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 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.

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(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 [M22]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.

Marginal Citations
M22 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:—
   (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 -

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[[F54](i) 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 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.

(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 emplowering 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—

(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

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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 [M23]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, **[**[F55]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 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)—

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(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 [M24]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.

Textual Amendments

F54 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.

F55 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

Marginal Citations

M23 1969 c. 38.

M24 1884 c. 72.

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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:—

(a) the said moneys up to a total in any **[**[F56]funding**]** period of such figure as shall be determined in accordance with section 53 for that period shall be paid to the Redundant Churches Fund;

[[F57](aa) so far as the said moneys exceed that figure in any funding period, but subject to an appropriate order made under section 53(1)(c), they may from time to time be allocated to the redundant churches temporary maintenance account in such amounts as the Commissioners may determine;**]**

[[F58](b) the balance of the said moneys remaining after the making of payments under paragraph (a) and allocations under paragraph (aa) shall from time to time be **[**[F59]paid to such diocesan boards of finance, in such amounts, as the Commissioners may determine for allocation to the diocesan pastoral accounts**]]**

[F60](2) . . . . . .

Textual Amendments

F56 Words in s. 52(1)(a) substituted (1.4.1994) by 1994 No. 1, **s. 5(a)(i)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F57 S. 52(1)(aa) inserted (1.4.1994) by 1994 No. 1, **s. 5(a)(ii)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F58 S. 52(1)(b) substituted (1.4.1994) by 1994 No. 1, **s. 5(a)(iii)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York

F59 Words in s. 52(1)(b) substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 4**; Instrument dated 14.12.2000 made by Archbishops of Canterbury and York

F60 S. 52(2) repealed (1.4.1994) by 1994 No. 1, **s. 5(b)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

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 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 **[**[F61]funding**]** 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 **[**funding**]** 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.

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(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 **[**[F62]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.

[[F63](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 [M25]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

F61 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.

F62 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.

F63 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.

Modifications etc. (not altering text)

C5 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.

C6 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

M25 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

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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 **[**[F64]: 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

F64 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 **[**[F65]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 **[**[F65]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.

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(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

F65 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.

[[F66](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.

Textual Amendments

F66 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 01/02/2001.*
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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 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.

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(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 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

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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 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

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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 **[**[F67]and subject to any terms included in a lease under section 44(7A)**]** it shall continue to be subject to the legal effects of consecration.

(3) [F68]. . . 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.

Textual Amendments

F67 Words in s. 61(2) inserted (1.4.1994) by 1994 No. 1, **s. 7(a)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F68 Words in s. 61(3) omitted (1.4.1994) by virtue of 1994 No. 1, **s. 7(b)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York

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.

(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

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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).

[[F69](3) Section 84 (except subsection (2)) of the Law of Property Act 1925 (which enables the Lands Tribunal to discharge or modify restrictions affecting land) shall not apply in relation to conditions and requirements imposed under subsection (1).**]**

Textual Amendments

F69 S. 62(3) inserted (1.4.1994) by 1994 No. 1, **s. 8**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

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 **[**[F70]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

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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.

Textual Amendments

F70 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:—

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(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 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 [M26]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.

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(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.

Modifications etc. (not altering text)

C7 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

M26 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;

[[F71](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 **[**[F72]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.

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[[F73](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.**]**

(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 **[**[F74]or (as the case may be) the Historic Buildings and Monuments Comission for England**]**or be enjoyed by him **[**[F74]or them**]**for the performance of his **[**[F74]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 **[**[F75]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 **[**[F76]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 **[**[F76]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 **[**[F76]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.

[[F77](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 **[**[F78]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 **[**[F78]or the Commission (as the case may be)**]**for the acquisition of the land by the Secretary of State **[**[F78]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).

[[F79](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 **[**[F80]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

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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.

[[F81](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.**]**

Textual Amendments

F71 S. 66(1)(*c*)(*d*) inserted by National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)(2)**
F72 Words substituted by National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)(2)**
F73 S. 66(1A) inserted by National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)(3)**
F74 Words inserted by the National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)(4)**
F75 Words inserted by National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)(4)**
F76 Words inserted by National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)(5)**
F77 S. 66(3A) inserted by National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)**(*b*)
F78 Words inserted by National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)(7)**
F79 S. 66(4A) inserted by National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)(8)**
F80 Words inserted by National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)(9)**
F81 S. 66(6)–(8) inserted by National Heritage Act 1983 (c. 47, SIF 3, 78), s. 33, **Sch. 4 para. 70(1)(10)**

PART IV

MISCELLANEOUS, ADMINISTRATIVE AND GENERAL

Restrictions on presentation

67 Suspension of presentation for period not exceeding five years.

(1) Where a benefice is vacant or is shortly to become vacant, the bishop may, subject to the following provisions of this Measure, with the consent of the pastoral committee, and after consultation with—

(a) the **[**[F82]registered patron**]**of the benefice,

(b) the parochial church council of the parish or each of the parishes concerned, and

(c) both chairmen of the deanery synod of the deanery concerned;

give notice that during such period not exceeding five years as may be specified in the notice (hereafter in this Measure referred to as the "suspension period"), the

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[[F82]registered patron**]**shall not exercise his right of presentation without the consent of the pastoral committee and (if he is not the **[**[F82]registered patron**]**) of the bishop; and thereupon the said right shall only be exercised in accordance with the notice during the suspension period.

When consulting any person in accordance with this subsection the bishop shall inform him of the reasons why he is considering whether he should exercise the power conferred by this subsection.

(2) The power conferred by the foregoing subsection may be exercised in relation to any benefice at any time within three months before the benefice is due to become vacant or at any time during the vacancy.

(3) Except where any consultation required by subsection (1) takes place at a meeting between the bishop or his representative and the person to be consulted or his representative, that person shall be advised that he may, within twenty-eight days after receiving a request from the bishop for his views about the giving of the notice under that subsection, request a meeting with the bishop or his representative, and where such a request is made, the bishop shall convene a meeting which all the persons whom he is required by that subsection to consult shall be invited to attend, either in person or by representatives, for the purpose of enabling those present to consult with the bishop or his representative about the giving of the said notice.

(4) The suspension period shall come to an end before the date on which it would otherwise expire, in any of the following circumstances:—

(a) if notice is given by the bishop that the necessary consent or consents have been given to the exercise of the patron's right of presentation;

(b) if notice is given by the bishop with the consent of the pastoral committee, terminating the said period; or

(c) if a pastoral scheme or order provides for the holding of the benefice in plurality with another benefice or other benefices, or a pastoral scheme otherwise affecting the benefice expressly provides for the termination of the said period;

and the termination shall, in the cases mentioned in paragraphs (a) and (b) hereof, take effect on such day, not being less than fourteen days after the date of the notice, as may be specified therein, and, in the cases mentioned in paragraph (c) hereof, shall take effect when the relevant provisions of the pastoral scheme or order come into operation.

(5) The bishop may, before the expiration of a suspension period, by a further notice, given with the same consent and after the same consultation as were required for the original notice given under subsection (1), extend the period for a further period not exceeding five years; and the said power may be exercised from time to time before the expiration of any extension of a suspension period.

(6) A notice given by the bishop under this section shall be given to—

(a) the pastoral committee,

[[F83](b) the registered patron of the benefice, unless the only registered patron is the bishop;**]**

(c) both chairmen of the deanery synod of the deanery concerned,

(d) the churchwardens of the parish or each of the parishes concerned, and

(e) [F84]. . .the sequestrators;

and a copy of the notice shall be filed in the diocesan registry.

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(7) The churchwardens to whom any such notice as aforesaid is given shall forthwith cause it to be affixed at or near to the door of a parish church or, if there is no parish church, of the principal place of worship in the parish.

Textual Amendments

F82 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 18**(*a*)

F83 S. 67(6)(*b*) substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 18**(*b*)

F84 Words in s. 67(6)(e) omitted (1.6.1992) by virtue of Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para.21**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

68 During suspension period sequestration of profits and other matters.

(1) Where the bishop has declared a suspension period in respect of any benefice under section 67, he shall during that period sequester the profits of the benefice, [F85]. . . .

(2) The sequestrators [F85]. . . shall, subject to and in accordance with the directions of the bishop, make provision for the performance during the suspension period of the ecclesiastical duties of the benefice, and before giving any such directions the bishop shall consult the parochial church council of the parish or each of the parishes concerned and so far as is reasonably practicable, the **[**[F86]registered patron**]**of the benefice.

(3) Where the bishop proposes to appoint a priest in charge for any benefice to which a suspension period applies, he shall before making the appointment consult the parochial church council of the parish or each of the parishes concerned and, so far as is reasonably practicable, the patron of the benefice.

(4) Where the bishop appoints a priest in charge for any benefice to which a suspension period applies, the bishop may require the priest to reside in the parsonage house of the benefice.

(5) The provisions of Schedule 7 shall have effect with respect to the management of the benefice property and the application of the profits thereof during any suspension period.

Textual Amendments

F85 Words in s. 68(1)(2) omitted (1.6.1992) by virtue of Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para.22**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

F86 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 19**

69 Restrictions on presentation pending the making of pastoral schemes and orders.

(1) Where any proposals submitted under section 4(1) or section 14(1) contain recommendations for any of the matters specified in sections 17 and 18 and 20 to 22, and any benefice which would be affected if the recommendations were implemented

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is vacant on the date on which the **[**[F87]registered patron**]**thereof receives a copy of the proposals under section 4(2) or becomes vacant thereafter, the **[**[F87]registered patron**]**shall not be entitled after that date or after the occurrence of the vacancy, as the case may be, to exercise his right of presentation to the benefice without the consent of the pastoral committee and (unless the bishop is the patron) of the bishop, until the occurrence of whichever of the following first occurs, namely,—

(a) the relevant recommendations are implemented by a pastoral scheme or order and come into operation, in which case the right of presentation shall be subject to the provisions of the scheme or order; or

(b) the proposals are withdrawn or the draft scheme or order prepared in pursuance thereof is withdrawn, or the scheme made in pursuance thereof is disallowed or withdrawn; or

(c) the relevant recommendations are omitted from the proposals, draft scheme or order, or scheme; or

(d) the period of three years from the date aforesaid expires.

(2) Where the bishop has given directions to the pastoral committee under section 2(1) to consider or has been notified under section 2(2) that the committee intend to consider in relation to any benefices, any of the matters specified in sections 17 and 18 and 20 to 22, he may, upon a vacancy or impending vacancy in any of those benefices, or where a joint pastoral committee has been appointed under section 13, the bishop may, upon a vacancy of impending vacancy in any benefice which might be affected by the exercise of the powers of that committee under sections 13 and 36, as limited (if at all) by instrument sealed by the bishops of the dioceses concerned, also notify—

[[F88](a) the registered patron, unless the only registered patron is the bishop;**]**

(b) the parochial church council, and

(c) both chairmen of the deanery synod of the deanery concerned,

that those matters are being considered, and thereupon the **[**[F89]registered patron**]**shall not be entitled to exercise his right of presentation to that benefice without such consent or consents as are specified in subsection (1); **[**[F89]and the provisions of section 7 of the Patronage (Benefices) measure 1986 shall, subject to the modifications made by section 70 of this Measure, apply**]**.

(3) A restriction imposed by subsection (2) shall cease to operate at the expiration of one year from the date of the said notice unless within that period proposals are submitted under section 4(1) or section 14(1) containing recommendations for any of the matters specified as aforesaid which would affect the benefice concerned, in which case the restriction shall continue until the occurrence of whichever of the following first occurs, that is to say, the several events mentioned in paragraphs (a), (b) and (c) of subsection (1), and the expiration of three years from the date of the said notice.

(4) The fact that restrictions are in force under this section with respect to any benefice shall not be taken as preventing the bishop from exercising his powers under sections 67 and 68 with respect to the benefice, and, if he does so, those sections and Schedule 7 shall apply to the benefice in lieu of this section.

Textual Amendments

F87 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 20**(*a*)

F88 S. 69(*a*) substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 20**(*b*)

Status: *Point in time view as at 01/02/2001.*
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F89 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 20**(*b*)

70 Modification of Benefices (Exercise of Rights of Presentation) Measure 1931 where presentation is suspended or restricted.

Where the bishop declares a suspension period in respect of any benefice, or any restriction imposed by or under any provision of section 24 or 69 comes into force in respect of any benefice,—

(a) save as provided in this section no notice under **[**[F90]section 7 of the Patronage (Benefices) Measure 1986**]**of a vacancy or impending vacancy in that benefice shall be given during the suspension period or, as the case may be, while the restriction is in force;

(b) any such notice relating to that benefice given before the suspension period began or, as the case may be, the restriction came into force shall be deemed to have been revoked and any act done under that Measure consequent upon that notice shall be of no effect;

(c) that benefice shall be deemed for the purposes of that Measure to become vacant immediately after the day on which the suspension period comes to an end or, as the case may be, the day on which the restriction ceases to be in force; and

(d) upon the benefice being deemed to become vacant the bishop shall give to the patron and the parochial church council the notice required by **[**[F91]section 7(4)**]**of that Measure so however that if the suspension period will come to an end as a result of a notice given by the bishop under section 67(4) of this Measure the notice referred to in the foregoing provisions of this section may be given by the bishop at the same time as the notice under section 67(4) and in any other case the notice referred to in the foregoing provisions may be given not more than fourteen days before the suspension period will end or the restriction will cease to be in force as the case may be.

Textual Amendments

F90 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 21**(*a*)

F91 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 21**(*b*)

71 . . . . . [F92]

Textual Amendments

F92 S. 71 repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(2), **Sch. 5**

72 . . . . . [F93]

Status: *Point in time view as at 01/02/2001.*
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Textual Amendments

F93 S. 72 repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(2), **Sch. 5**

73 Suspension of new rights of patronage.

Where any proposals approved under section 4(1) contain recommendations for the creation of a new benefice for a new parish, and any church in the area which is to form the new parish is consecrated after the proposals are so approved but before any of the events mentioned in section 69(1) have occurred in relation to those recommendations, no person shall become the patron of that church by virtue of any rule of law or any provision of or instrument under any Act or Measure other than this Measure during the period between the said approval of the recommendations and such one of the said events as first occurs.

Miscellaneous provisions

74 Priest in charge to replace incumbent as trustee of certain charities during vacancy in benefice, etc.

(1) Where any property of a charity established for ecclesiastical purposes of the Church of England is vested in or under the management or control of the incumbent of a benefice (with or without other persons) or a corporation of which the incumbent of a benefice is a member, and the benefice becomes vacant or the bishop declares a suspension period in respect of the benefice, then, during the period of the vacancy or during the suspension period, as the case may be, the trusts of the charity or the constitution of the corporation shall have effect with the substitution for the incumbent of that benefice of the priest in charge of that benefice.

(2) Any change under subsection (1) shall take effect without any conveyance or other assurance.

(3) The provisions of this section shall not apply to any fund or property for which provision is made under section 63.

75 Induction in one parish church.

(1) Where, in a case not falling within paragraph 5(2)(a) of Schedule 3, any person is appointed an incumbent of a benefice in the area of which two or more parish churches are situated, the bishop may direct in which parish church the incumbent is to be inducted, and after such induction he shall be deemed to have been inducted in both or all of the parish churches situated in the area of that benefice and to have been admitted to that benefice, and no further fees in respect thereof shall be payable.

(2) Where, in a case not falling within paragraph 5(3)(a) of Schedule 3, any person is appointed an incumbent of benefices which are to be held in plurality, the bishop may direct that the incumbent shall be inducted in such one of the parish churches in the areas of those benefices as he may specify, and after such induction the incumbent shall be deemed to have been inducted in all of the parish churches in the said areas and to have been admitted to each of those benefices, and no further fees in respect thereof shall be payable.

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76 Grant of land for new churches etc and vesting of certain churches.

(1) Where the diocesan board of finance or any other body constituted for the holding on trust of diocesan property holds any buildings or land for the general purposes of the board or for any ecclesiastical purposes of the Church of England, the board or other body may, without the sanction of an order of the Charity Commissioners or the Court, grant the buildings or land to the Commissioners under section 14 of the [M27]New Parishes Measure 1943 for any of the purposes mentioned in section 13 of the said Measure, being purposes falling within the purposes for which the land is held prior to the grant.

(2) It is hereby declared for the removal of doubt that the powers conferred by the said section 14 extend to the grant by the incumbent of a banefice of any part of the land held with the parsonage, but no such grant shall be made without the consent of the diocesan parsonages board.

Marginal Citations

M27 1943 No. 1.

Administrative provisions

77 Diocesan pastoral accounts.

(1) The **[**[F94]diocesan board of finance of each diocese shall**]** hold an account for each diocese to be called the diocesan pastoral account and shall transfer thereto—

(a) any moneys which are payable to the said account under any provisions of this Measure or any scheme or order made thereunder;

(b) such other moneys as the bishop and the diocesan board of finance for the diocese, after consultation with the Commissioners, **[**[F95]determine should be credited**]** to the said account not being moneys for the application or disposal of which provision is made by or under any other enactment.

[F96](2) . . . . . .

(3) Every diocesan board of finance shall as soon as practicable after the end of each financial year of the board prepare an account of the moneys paid into or out of the diocesan pastoral account during that year and shall include therein a statement of the amount by which the diocesan pastoral account was in debit or credit, as the case may be, at the beginning and end of that year.

(4) Every diocesan board of finance shall send to the Commissioners **[**[F97]and the Archbishops' Council**]**annually a copy of the account prepared by the board under this section duly audited and shall lay a copy thereof before the diocesan synod.

Textual Amendments

F94 Words in s. 77(1) substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 5(a)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

F95 Words in s. 77(1)(b) substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 5(a)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

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F96 S. 77(2) repealed (1.1.2001) by 2000 Measure No. 1, s. 20, **Sch. 8 Pt. I**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

F97 Words in s. 77(4) inserted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 5(b)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

Modifications etc. (not altering text)

C8 S. 77: transfer of functions (1.1.2001) by 2000 Measure No. 1, **s. 1(1)(b)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

78 Payment of expenses from diocesan pastoral accounts, and application of other moneys therein.

(1) Expenses incurred by or on behalf of, or under the authority or direction of, the bishop of any diocese or any pastoral committee or any diocesan redundant churches uses committee or the Commissioners for the purposes of this Measure or any scheme or order made thereunder, **[**[F98]shall be paid**]** out of the moneys standing to the credit of **[**[F98]the diocesan pastoral account**]**, so far as those moneys suffice, but such expenses shall not include the salaries or wages of persons in the regular employment of the bishop, any board or committee of the diocese, or the Commissioners, or any part of such salaries or wages.

[[F99](1A) Where such expenses are incurred in respect of more than one diocese the Commissioners shall, after consultation with the diocesan board of finance of each diocese concerned, determine the proportions in which the expenses are to be borne by each diocese.**]**

(2) **[**[F100]The Commissioners or the diocesan board of finance, as the case may be shall be entitled to be repaid**]**out of the diocesan pastoral account any money expended by them or the board on any property vested by or under this Measure in the Commissioners or the board, as the case may be, for the purpose of furthering the disposal or use of the property.

(3) **[**[F101]Where the diocesan board of finance is satisfied that any moneys standing to the credit of a diocesan pastoral account are not required or likely to be required for meeting the expenses or expenditure referred to in the foregoing subsections it may**]**,—

(a) apply those moneys by way of grant or loan to the provision, restoration, improvement or repair of churches and parsonage houses in the diocese, including the repair of any redundant building vested in the board pending the **[**[F102]coming into operation of arrangements under**]** a redundancy scheme, or to other purposes of the diocese or any benefice or parish in the diocese; or

(b) apply those moneys by way of grant or loan for the benefit of another diocese, either generally for the purposes aforesaid or for such of those purposes as the said board may specify; or

(c) transfer those moneys to the capital or income account of the diocesan stipends fund.

[F103](4) . . . . . .

[F103](5) . . . . . .

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Textual Amendments

F98 Words in s. 78(1) substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 6(a)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

F99 S. 78(1A) inserted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 6(b)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

F100 Words in s. 78(2) substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 6(c)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

F101 Words in s. 78(3) substituted (1.1.2001) by virtue of 2000 Measure No. 1, s. 10, **Sch. 6 para. 6(d)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

F102 Words in s. 78(3)(a) substituted (1.4.1994) by 1994 No. 1, **s. 9**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F103 S. 78(4)(5) repealed (1.1.2001) by 2000 Measure No. 1, ss. 10, 20, Sch. 6 para. 6(e), **Sch. 8 Pt. II**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

[F104 78A Temporary maintenance account.

(1) The Commissioners shall hold an account to be called the redundant churches temporary maintenance account and shall transfer thereto any moneys which are payable to the said account under section 52.

F105 **[** (1A) Any moneys transferred under subsection (1) above shall be held by the Commissioners as part of their corporate property and the Commissioners shall credit the redundant churches temporary maintenance account with an equivalent amount charged upon their general fund and shall allow interest at such rate as they may determine upon all sums credited to that account.**]**

(2) The Commissioners may apply moneys standing to the credit of the redundant churches temporary maintenance account by way of grant or loan to the **[**F106 care, insurance**]** repair and maintenance of any redundant building vested in

F107 **[** (a) the Commissioners or a diocesan board of finance pending the coming into operation of arrangements under a redundancy scheme;

(b) a diocesan board of finance pending the coming into operation of arrangements under a new or amended redundancy scheme;

(c) the Commissioners or a diocesan board of finance pending the coming into operation of arrangements under a pastoral scheme to which section 46 or 47 applies.**]]**

Textual Amendments

F104 S. 78A inserted (1.4.1994) by 1994 No. 1, **s. 10**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F105 S. 78A(1A) inserted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 7**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

F106 Words in s. 78A(2) inserted (1.1.1999) by 1998 No. 1, s. 13(1), **Sch. 5 para. 5(a)**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York.

F107 Words in s. 78A(2) inserted for the words “a diocesan board of finance” to the end (1.1.1999) by 1998 No. 1, s. 13(1), **Sch. 5 para. 5(b)**; Instrument dated 14.10.1998 made by Archbishops of Canterbury and York

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79 Power of Commissioners to determine boundaries.

(1) Where by virtue of this Measure or any scheme or order made thereunder any land is vested in the Commissioners, the diocesan board of finance, the Redundant Churches Fund or an incumbent of a benefice, the Commissioners may determine the boundaries thereof by an instrument under their seal, and such determination shall for all purposes be binding on any of the said bodies and any incumbent, whether as the body or person in whom the land is vested or the body or person from whom it is transferred, but shall bind no other person.

(2) A copy of any such instrument purporting to be certified by an officer of the Commissioners as a true copy shall be sufficient evidence in any proceedings of the contents of the instrument.

80 Power of Commissioners to determine questions relating to patronage.

[[F108](1) Where it is necessary for the purposes of this Measure or any scheme or order made thereunder to find the registered patron of a benefice and it appears to the Commissioners that it is not possible or is not reasonably practicable to find that patron, the Commissioners may direct that the diocesan board of patronage shall be treated for those purposes as the registered patron of that benefice, and any such direction shall be conclusive for the said purposes.**]**

(2) The provisions of the foregoing subsection with respect to a person who cannot be found shall apply also with respect to a person as to whom the Commissioners are satisfied—

(a) that he is outside the United Kingdom and has not within the United Kingdom any representative authorised to act for him; and

(b) either that no address at which letters are likely to be delivered to him is known, or that a letter asking him to nominate such a representative has been written to him at his last known address but no reply has been received within a reasonable period.

(3) If at any time it appears to the Commissioners that the interest of any person in the patronage of a benefice is so small that for the purposes of section 32 or paragraph 1 of Schedule 3 it should be disregarded, they may determine his interest to be negligible and thereupon he may be treated for the said purposes as having no interest in the patronage of the benefice.

Textual Amendments

F108 S. 80(1) substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 22**

81 Application to benefices in the patronage of the Crown or Duke of Cornwall.

(1) . . . . . [F109], nothing in this Measure or in any scheme or order made under this Measure shall without the consent, given either generally or in respect of a particular benefice, of Her Majesty or, as the case may be, of the Duke of Cornwall, apply in relation to any benefice the patronage or any share in the patronage of which is vested in or exercisable by her Majesty, whether in right of Her Crown or of Her Duchy of Lancaster, or is vested in or exercisable by the possessor for the time being of the Duchy of Cornwall, whether Her Majesty or a Duke of Cornwall.

Status: *Point in time view as at 01/02/2001.*
Changes to legislation: *Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Any consent given under the foregoing subsection and, if by virtue of any such consent any provisions of this Measure or any scheme or order made thereunder apply to any such benefice as aforesaid, any consent, approval or other thing required by any such provision, scheme or order to be given or done by or to the patron of the benefice, may be given or done in accordance with the following provisions:—

(a) general consent under the foregoing subsection in respect of benefices the patronage of which is vested in or exercisable by Her Majesty in right of Her Crown, or a particular consent thereunder in respect of any such benefice which is about the yearly value of twenty pounds in the King's books, and any consent, approval or other thing required as aforesaid to be given or done by or to the patron of any such last-mentioned benefice may be given or done by or to the Prime Minister;

(b) any particular consent under the foregoing subsection in respect of a benefice the patronage of which is vested in or exercisable by Her Majesty in right of Her Crown and the yearly value of which does not exceed twenty pounds in the King's books, and any consent, approval or other thing required as aforesaid to be given or done by or to the patron of any such benefice, may be given or done by or to the Lord Chancellor;

(c) any consent under the foregoing subsection in respect of a benefice or benefices the patronage of which is vested in or exercisable by Her Majesty in right of the Duchy of Lancaster, and any consent, approval or other thing required as aforesaid to be given or done by or to the patron of any such benefice, may be given or done by or to the Chancellor of the Duchy;

(d) any consent under the foregoing subsection in respect of a benefice or benefices the patronage of which is vested in or exercisable by the possessor for the time being of the Duchy of Cornwall, and any consent, approval or other thing required as aforesaid to be given or done by or to the patron of any such benefice, may be given or done by or to any person authorised to act on behalf of the Duke of Cornwall under the [M28]Duchy of Cornwall Management Act 1863, including any persons having authority under section 38 or section 39 of the said Act.

Textual Amendments

F109 Words repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(2), **Sch. 5**

Modifications etc. (not altering text)

C9 S. 81(2)(*a*)–(*d*) modified by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), **s. 35(8)**

Marginal Citations

M28 1863 c. 49.

82 Patrons who are minors.

Where a minor is entitled to the patronage or a share of the patronage of a benefice, any consent, approval or other thing required by any provision of this Measure or any scheme or order made thereunder to be given or done by or to the **[**[F110]registered patron**]**of the benefice may be given or done by or to the guardian of the minor.

Status: *Point in time view as at 01/02/2001.*
Changes to legislation: *Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F110 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 23**

83 Provisions as to notices and other documents.

(1) All notices, consents, directions, determinations and requests required or authorised by this Measure to be served, sent, given, made or obtained shall be in writing.

(2) Any notice or other document required or authorised by this Measure to be served on or sent or given to any person may be served, sent or given by delivering it to him, or by leaving it at his proper address, or by post.

(3) Any such notice or other document required or authorised to be served, sent or given to a corporation or to an unincorporated body having a secretary or clerk or to a firm, shall be duly served, sent or given if it is served on or sent or given to, as the case may be, the secretary or clerk of the corporation or body or a partner of the firm.

(4) For the purposes of this section, and of section 7 of the [M29]Interpretation Act 1978, the proper address of the person on or to whom any such notice or other document is required or authorised to be served, sent or given shall, in the case of the secretary or clerk of a corporation, be that of the registered or principal office of the corporation, in the case of the secretary or clerk of an unincorporated body or a partner of a firm, be that of the principal office of the body or firm, and, in any other case, be the last known address of the said person:

Provided that, where the person on or to whom the notice or other document is to be served, sent or given, has, in accordance with arrangements agreed, furnished an address in the United Kingdom for the serving, sending or giving of the notice or other document, his proper address for those purposes shall be that address.

(5) If any question arises as to the person on or to whom, or the manner in which, any notice or other document is to be served, sent or given, the Commissioners may decide the question and their decision shall be conclusive.

Marginal Citations

M29 1978 c. 30.

84 Provisions where there is no parochial church council, incumbent, etc.

(1) Where at the material time a parish has no parochial church council, the provisions of this Measure with respect to notices, consents and other things required or authorised to be given or done by or to such councils shall have effect, if the parish has churchwardens, as if the churchwardens were the parochial church council, and, if there are no churchwardens, shall have no effect with respect to that parish.

(2) Where at the material time a benefice has no incumbent, or the office of vicar in a team ministry is vacant, the provisions of this Measure with respect to notices, consents and other things required or authorised to be given or done by or to incumbents or vicars in team ministries shall have no effect with respect to that benefice or office.

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(3) Where at the material time an archdeaconry has no archdeacon or a deanery has no rural dean, the provisions of this Measure with reference to notices, consents and other things required or authorised to be given or done by or to archdeacons or rural deans shall have no effect with respect to that archdeaconry or deanery.

(4) For the purposes of this section a certificate signed by the bishop stating that at any time specified therein a particular benefice, office of vicar in a team ministry, archdeaconry or deanery had no incumbent, vicar, archdeacon or rural dean, as the case may be, or a particular parish had no parochial church council or no churchwardens, shall be conclusive.

General provisions

85 Pluralities not to be authorised except under Measure.

(1) Subject to the provisions of this Measure, no person shall hold benefices in plurality except in pursuance of a pastoral scheme or order.

(2) Subject to the provisions of this Measure, no person shall hold a cathedral preferment with a benefice or with two or more benefices authorised to be held in plurality by a pastoral scheme or order, unless the cathedral statutes so provide or allow.

(3) No person shall hold cathedral preferments in more than one cathedral.

(4) If any person accepts any benefice or cathedral preferment and such acceptance would, but for this subsection, result in his holding offices in contravention of this section, he shall, on his admission to the benefice or preferment, be deemed to vacate the office or offices previously held by him.

(5) In this section—

"benefice" includes the office of a vicar in a team ministry;

"cathedral preferment" means the office of dean, provost, residentiary canon or stipendiary canon in any cathedral;

"cathedral statutes" includes a charter or local Act relating to the cathedral;

"office" means a benefice or cathedral preferment.

86 Meaning of "benefice" and "parish".

(1) In this Measure—

"benefice" means the office of rector or vicar of a parish or parishes, with cure of souls, but not including (except in section 85) the office of a vicar in a team ministry;

"the area of a benefice" means the parish or parishes belonging to the benefice;

"parish" means a parish constituted for ecclesiastical purposes, and does not include a conventional district.

(2) If any question arises under this Measure as to whether an ecclesiastical office is a benefice, or whether any area or place is or is within a parish or the area of a benefice or an extra-parochial place, it shall be determined by the Commissioners after consultation with the bishop, and that determination shall be conclusive for the purposes of this Measure.

Status: *Point in time view as at 01/02/2001.*
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(3) If any question arises whether any benefice or parish is to be treated, for the purposes of any pastoral scheme or order or any provisions of this Measure relating thereto, as a new benefice or parish or as an existing benefice or parish with altered area or boundaries, any provision of the scheme or order expressly stating or necessarily implying (whether by a change of name or retention of an existing name or otherwise) that the benefice or parish is to be treated as new or existing shall be conclusive of that question.

(4) Nothing in this Measure or in any scheme or order made thereunder shall be taken as applying to or in any way affecting any parish constituted otherwise than for ecclesiastical purposes.

87 General interpretation.

(1) In this Measure, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them, that is to say:—

"admission" includes institution and induction, collation, licence and any other process by which a person becomes the incumbent of a benefice or (for the purposes of section 85) the holder of a cathedral preferment and "admit" shall be construed accordingly;

"the Advisory Board" means the Advisory Board for Redundant Churches appointed under section 41;

"the bishop" means the bishop of the diocese concerned;

"charity" shall be construed in accordance with **[**[F111]section 96 of the Charities Act 1993**]**;

"church" means a church or chapel which has been consecrated for the purpose of public worship according to the rites and ceremonies of the Church of England, and includes a building used or intended to be used partly for the purpose of such public worship and partly for the purpose of a church hall, whether the whole building is consecrated or only such part thereof as is used or intended to be used for the purpose of such public worship, and any reference to the consecration of a church shall, in the case of such a building, be construed as including a reference to the consecration of the part of the building used or intended to be used for the purpose of such public worship as aforesaid;

"Council for the Care of Churches" means the body so named at the passing of this Measure or any body subsequently exercising the functions of that body under a different name or with a different constitution;

"the Commissioners" means the Church Commissioners;

"diocesan board of finance" means in relation to a diocese, the board of that name constituted under the [M30]Diocesan Board of Finance Measure 1925 for that diocese;

Provided that, if the bishop certifies that a board of finance not so constituted or a body constituted for the holding on trust of diocesan property is to be treated for any of the purposes of this Measure or of any scheme or order made thereunder as the diocesan board of finance for that diocese, the board or body so certified shall be so treated instead of any board constituted under the said Measure;

"diocesan pastoral account" means, in relation to a diocese, the account referred to in section 77 for that diocese;

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"diocesan stipends fund" means, in relation to a diocese, the fund of that name established for that diocese;

"Dioceses Commission" means the body constituted under the [M31]Dioceses Measure 1978;

"endowments" in relation to any benefice, does not include a church, churchyard, parsonage house or right of patronage, but subject as aforesaid any question as to what constitutes the endowments of a benefice or the income of the endowments shall be conclusively determined by the Commissioners, who may include income arising from a parsonage house;

[[F112]"funding period" means a period determined as such by an order made under section 53(1);**]**

"interested parties" has the meanings assigned by section 3;

"local planning authority"—

(a) **[**[F113]in England**]**outside Greater London, means the district planning authority;

(b) in Greater London, means the Greater London Council and also, in relation to the City of London, means the Common Council of the City of London and, in relation to any London borough, means the council of that borough;

"parsonage house" means the house or other dwelling vested in the incumbent of a benefice (when the benefice is full) and being his official residence, and includes any outbuildings or land included in the curtilage of any such house or dwelling and any rights appurtenant thereto;

"pastoral committee" means the committee appointed under, or by virtue of, this Measure, but does not include a joint pastoral committee;

"pastoral order" means an order made by the bishop under section 8;

"pastoral scheme" means a scheme made by the Commissioners and confirmed by Order in Council under Part I, and includes (except where it is expressly or by necessary implication excluded) any such scheme made in pursuance of proposals by a joint pastoral committee appointed under section 13;

"patron", in relation to any benefice, means the person or persons for the time being entitled, otherwise than by lapse, to present to that benefice upon a vacancy, including—

(a) in any case where the right to present is vested in different persons jointly, every person whose concurrence would be required for the exercise of the joint right, and

(b) in any case where the patronage is vested in different persons by way of alternate or successive right of presentation, every person who is for the time being the person who would be entitled to present on the next or any subsequent turn,

and "right of patronage" shall be construed accordingly:

Provided that, in the application of these definitions, the fact that any person is a Roman Catholic shall be disregarded;

"provision" in relation to a building, includes, in addition to the construction or erection thereof, the acquisition of a site and the provision of necessary fittings, installations, outbuildings, fences, paths and drives, and "provide" shall be construed accordingly;

"redundant building" has the meaning assigned to it by section 28;

[[F114]"redundant churches temporary maintenance account" means the account referred to in section 78A;**]**

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"redundancy scheme" has the meaning assigned to it by section 48;

[[F115]"registered patron", in relation to a benefice or to benefices held in plurality, means every person who is for the time being registered under the Patronage (Benefices) Measure 1986 in a register of patrons as a patron of that benefice or those benefices**]**

"restoration" includes rebuilding or partial rebuilding;

"sharing agreement" has the same meaning as in the [M32]Sharing of Church Buildings Act 1969;

"suspension period" has the meaning assigned to it by section 67(1).

(2) In this Measure, except where otherwise indicated,—

(a) a reference to a numbered section or schedule is a reference to the section of or schedule to this Measure so numbered, and

(b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered, and

(c) a reference in a section, subsection or schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or schedule so numbered, and

(d) a reference in a paragraph of a schedule to a numbered sub-paragraph is a reference to the sub-paragraph of that paragraph so numbered, and

(e) a reference to a particular Part is a reference to that Part of this Measure.

(3) In determining the net proceeds of the sale or exchange of any property by the Commissioners or the diocesan board of finance, or the net premium or net rent of any property let by the Commissioners or board, the deductions to be made shall include the deduction of any money expended by the Commissioners or board or a diocesan redundant churches uses committee on the property or for the purpose of furthering the disposal of the property or on the demolition of any building on the property; and if any question arises as to what are the net proceeds, net premium or net rent aforesaid, the decision of the Commissioners shall be conclusive.

(4) Any reference in this Measure to the Church Representation Rules shall be construed as a reference to those Rules as for the time being amended by any resolution of the General Synod passed in accordance with section 7(1) of the [M33]Synodical Government Measure 1969.

[[F116](5) Any reference in this Measure to the demolition of a building shall be construed as including a reference to the demolition of part thereof.**]**

Textual Amendments

F111 Words in s. 87(1) substituted (E.W.) (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), **Sch. 6 para. 18(4)**

F112 S. 87(1): Definition of "funding period" inserted (1.4.1994) by 1994 No. 1, **s. 11(a)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F113 S. 87(1): Words in definition of "local planning authority" inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 71** (with ss. 54(5)(7), 55(5)); S.I. 1996/396, art. 4, **Sch. 2**.

F114 S. 87(1): Definition of "redundant churches temporary maintenance account" inserted (1.4.1994) by 1994 No. 1, **s. 11(b)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

F115 Definition inserted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 24**

F116 S. 87(5) inserted (1.9.1995) by 1995 No. 2, **s. 11(d)**; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York.

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Marginal Citations

M30 1925 No. 3.
M31 1978 No. 1.
M32 1969 c. 38.
M33 1969 No. 2.

88 Saving for planning legislation.

Notwithstanding that the development of any land is or may be authorised or regulated by or under this Measure, the provisions of the enactments relating to town and country planning, and any restrictions or powers thereby imposed or conferred in relation to land, shall apply and may be exercised in relation thereto.

89 Provisions as to guild churches.

(1) A pastoral scheme may make a declaration of redundancy under section 28 with respect to a church designated as a guild church under the City of London (Guild Churches) Acts, 1952 and 1960, other than the church of St. Lawrence Jewry, as if the references to a parish church included references to a guild church, and accordingly provision may be made under Part III of this Measure, either by the pastoral scheme, in accordance with section 47 but not section 46, or by a redundancy scheme, with respect to the guild church or part thereof and any churchyard or other land annexed or belonging to the church.

(2) When a pastoral scheme or redundancy scheme making such provision as aforesaid comes into operation, the said Acts shall cease to apply to the guild church concerned, and the scheme may provide for such transitional, supplementary and incidental matters as appear to the Commissioners to be necessary.

(3) A pastoral scheme may make provision in accordance with section 30 with respect to the churchyard or other land annexed or belonging to a guild church, other than the church of St. Lawrence Jewry.

(4) In relation to a pastoral scheme affecting a guild church—
   (a) the interested parties shall be or shall include the vicar of the guild church, the patron of the guild church and the guild church council;
   (b) the references in section 6(4) to the secretary of the parochial church council and the parish church or churches shall be or shall include references to the secretary of the guild church council and the guild church.

(5) It is hereby declared that the incumbent of a benefice or the holder of another ecclesiastical office may be nominated to a vacancy in a guild church, but the bishop may refuse his licence on the ground that the benefice or office cannot properly be combined with the office of vicar of the guild church.

(6) Save as aforesaid nothing in this Measure or in any scheme or order made thereunder shall apply to or affect any guild church.

90 Churches, etc. affected by private and local Acts.

(1) Subject to subsection (4), the provisions of this Measure, and in particular those relating to redundant churches, shall apply to—

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(a) churches affected by any private or local Act passed before 1 April 1969;
(b) land comprising the sites of such churches or annexed or belonging to such churches; and
(c) any burial ground which is affected by any such Act and is vested in the incumbent of a benefice or is subject to the jurisdiction of the bishop of any diocese;

and a scheme made under this Measure may amend or revoke any provision of a private or local Act so passed, if it appears to the Commissioners that the provision of the Act is inconsistent with or rendered unnecessary by the provisions of the scheme or the provisions of this Measure applicable thereto.

(2) Where any private or local Act passed before 1 April 1969 provided for the erection of a new church, with or without other buildings and accommodation, and the bishop of the diocese in which the church was to be erected is satisfied, after consultation with the pastoral committee, that it is no longer expedient for a new church and other buildings and accommodation to be erected as provided by the Act or that a place of worship should be provided instead of that church, a pastoral scheme may provide for any or all of the following—
(a) for the erection on the land on which the church and any other buildings or accommodation were to be erected of a building suitable for licensing by the bishop as a place of worship;
(b) for empowering any person in whom that land is vested to sell, lease or otherwise dispose of it, or any part thereof, in such manner and upon and subject to such terms as the scheme may provide;
(c) for specifying the purposes for which any moneys received as a result of any such disposal are to be applied;

and any provisions of the Act relating to the erection of the new church and other buildings or accommodation, and any other provisions thereof which are inconsistent with, or rendered unnecessary by, the provisions of the scheme, may be amended or revoked by the scheme.

In this subsection "place of worship" has the same meaning as in section 46.

(3) Section 3(1) shall have effect in relation to the recommendations for a scheme proposed to be made by virtue of subsection (2) as if the words from "or, subject" to the end were omitted.

(4) If it appears to the Commissioners that a proposed pastoral scheme or redundancy scheme will affect the rights (other than the patronage rights) of any person under any such private or local Act as is referred to in subsection (1) or (2) they shall, in the case of a pastoral scheme, serve a copy of the draft scheme on that person together with such a notice as is mentioned in section 6(1) and he shall thereafter be deemed to be an interested party in relation to that scheme, and, in the case of a redundancy scheme, they shall serve a copy of the draft scheme on that person under section 50(3).

91 Preservation of amendment of section 5(3) of the Parsonages Measure 1938.

Notwithstanding the repeal by this Measure of the [M34]Pastoral (Amendment) Measure 1982, section 5(3) of the [M35]Parsonages Measure 1938 (balance of moneys arising from sale, etc. of benefice property) shall continue to have effect as amended by section 70 of the said Measure of 1982 and accordingly the said section 5(3) shall have effect as set out below:—

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"5

(3) Any moneys arising from any sale or exchange of any part of the property of a benefice under this Measure, in so far as they shall not be applied and disposed of under the foregoing provisions of this section or under section 36(2) of the Endowments and Glebe Measure 1976 shall be allocated by the Church Commissioners to the capital account of the diocesan stipends fund of the diocese to which the benefice belongs or to the pastoral account of that diocese, or partly to one and partly to the other as the diocesan board of finance may determine."

Marginal Citations

M34 1982 No. 1.

M35 1938 No. 3.

92 Transitional provisions.

The transitional provisions in Schedule 8 shall have effect.

93 Repeals.

Subject to the provisions of Schedule 8, the provisions specified in Schedule 9 are hereby repealed to the extent specified in column 3 of that Schedule.

94 Short title, extent and commencement.

(1) This Measure may be cited as the Pastoral Measure 1983.

(2) Subject to subsection (3), this Measure shall extend to the whole of the provinces of Canterbury and York except the Channel Islands and the Isle of Man, but may be applied to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either or them, in accordance with those Measures and may be extended to the Isle of Man by Act of Tynwald.

A scheme made for the purpose of such application, and the Order in Council confirming the scheme, may provide for the repeal of the Church Building Acts 1818 to 1884 and any other Acts specified in the schedule to the [M36]New Parishes Measure 1943, in their application to the Channel Islands or either of them.

(3) The power to apply the provisions of this Measure to the Channel Islands . . . [F117]shall not apply to sections 2 and 17 as far as they relate to sharing agreements.

(4) This Measure shall come into operation immediately after the coming into operation of the [M37]Pastoral (Amendment) Measure 1982 and for the purposes of this section that Measure shall be taken to come into operation on the first day on which all its provisions are in operation.

Textual Amendments

F117 Words repealed by Church of England (Ecumenical Relations) Measure 1988 (No. 3, SIF 21:1), **ss. 8**, 9(4)

Status: *Point in time view as at 01/02/2001.*
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Modifications etc. (not altering text)

C10 S. 94(4): First day on which all provisions of Pastoral (Amendment) Measure 1982 (No. 1) came into operation was 1.11.1983 (by Instrument dated 31.7.1983)

Marginal Citations

M36 1943 No. 1.

M37 1982 No. 1.

Status: *Point in time view as at 01/02/2001.*
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SCHEDULES

SCHEDULE 1

Section 1.

CONSTITUTION AND PROCEDURE OF THE PASTORAL COMMITTEE OF A DIOCESE

1 The Bishop shall be a member of the pastoral committee of his diocese if he so desires, and shall be the chairman thereof if he so desires.

2 If the bishop does not desire to be the chairman of the Committee he shall appoint a chairman who at the time of his appointment need not be a member of the committee but must be a member of the diocesan synod.

3 Every suffragan bishop in the diocese **[**[F118](not being a suffragan bishop appointed to act as a provincial episcopal visitor for the purposes of the Episcopal Ministry Act of Synod 1993)**]** and the archdeacon of every archdeaconry in the diocese shall be ex officio members of the committee.

Textual Amendments

F118 Words in Sch. 1 para. 3 inserted (1.9.1995) by 1995 No. 2, **s. 11(e)**; Instrument dated 26.7.1995 made by Archbishops of Canterbury and York.

4 The diocesan board of finance, the diocesan parsonages board (if appointed under the [M38]Repair of Benefice Buildings Measure 1972) or if not so appointed the committee of the diocesan board of finance relating to parsonage matters and the diocesan advisory committee for the care of churches shall each appoint a member of the committee, who shall be a member or officer of the body who so appoints him.

Marginal Citations

M38 1972 No. 2.

5 The remaining members of the committee shall be appointed or elected in such manner as the diocesan synod may determine, but so as to secure that not less than one-half of all the members of the committee shall be elected and that the number of members who are of the clergy and the number thereof who are of the laity shall, as nearly as may be, be the same, and not more than one-third shall be ex officio members appointed under paragraph 3.

6 Members (other than ex officio members) of the committee shall hold office for five years or such lesser period as the diocesan synod may determine, but shall be eligible for re-appointment on the termination of any period of office.

7 Not less than one-third of the members of the committee shall form a quorum.

8 The committee may act notwithstanding any vacancy in their membership.

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9 Every question submitted to a meeting of the committee shall be decided by a majority of those present and voting, and the chairman of the meeting shall have a second or casting vote in the case of an equality of votes.

10 The committee shall have power to appoint sub-committees and to appoint thereto persons who are not members of the committee, but a majority of the members of the sub-committee shall be members of the committee. The committee may delegate to such sub-committees any of their functions under Part I or Part IV except their duty under section 3(5) to afford opportunities to incumbents of benefices and vicars in team ministries to meet the committee itself and their functions under Schedule 4.

11 Where in accordance with section 3(5) or (6) any person is to meet a sub-committee of the committee, not less than two members of that sub-committee shall be members of the committee.

12 Subject to the foregoing provisions of this Schedule and to any directions given by the diocesan synod, the committee shall have power to regulate their own procedure.

SCHEDULE 2

Section 9.

APPEALS TO THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

1 Any person who intends to apply for leave to appeal to Her Majesty in Council under section 9 shall on or before the date specified in the notice served on him under subsection (1) of that section send written notice of his intention to the Clerk of the Privy Council. The notice shall be sent by registered post or recorded delivery service and a copy thereof shall be sent to the Commissioners by the applicant.

2 Where five or more persons acting jointly duly made written representations with respect to the draft scheme, notice of their intention to apply for leave to appeal under section 9, the application for such leave, and, if such leave is granted, the appeal, shall be given or made, as the case may be, by not more than four of those persons acting on behalf of themselves and the others.

3 If the Clerk of the Privy Council is satisfied that a notice under paragraph 1 has been given by a person who duly made written representations with respect to the scheme in question, he shall transmit the notice to the Registrar of the Privy Council and shall notify the applicant and the Commissioners that he has done so. If he is not so satisfied he shall inform the applicant and the Commissioners that the applicant is not entitled to proceed with his application.

4 Within the period of 28 days beginning with the date on which an applicant for leave to appeal under section 9 receives a notification under paragraph 3 from the said Clerk he shall lodge in the registry of the Privy Council five copies of his application for such leave, and the application shall—

(a) state the grounds of his appeal including a succinct statement of any reasons why he considers that the scheme in question, or any particular provision thereof, should not have been made;

(b) summarise succinctly and clearly any facts on which, if such leave is granted, he intends to rely in prosecuting his appeal.

There shall be annexed to each copy of the application a copy of the scheme and of the Commissioners' statement given to the applicant under section 9(1)(a).

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5 The Judicial Committee of the Privy Council shall consider an application for such leave, and if it grants leave, the Registrar of the Privy Council shall forthwith register the appeal and notify the Clerk of the Privy Council, the applicant and the Commissioners that he has done so.

6 After receiving notice that leave to appeal has been granted the appellant shall without delay lodge in the Registry of the Privy Council five copies of his petition of appeal. The petition shall consist of paragraphs numbered consecutively and shall state succinctly and clearly all such facts as are necessary in order to enable the Judicial Committee to advise Her Majesty in accordance with the provisions of section 9. There shall be annexed to each copy of the petition a copy of the scheme and of the Commissioners' statement given to the appellant under section 9(1)(a) and any documents in his possession to which the appellant may wish to refer. A copy of the petition and the annexed documents shall within fourteen days of the lodging of the petition be served by the appellant on the Commissioners.

7 The Commissioners shall without delay after receiving the said copy lodge in the Registry of the Privy Council five copies of their answer, to each of which shall be annexed copies of any documents to which the Commissioners may wish to refer, and shall within fourteen days of the lodging of the answer serve a copy thereof and of the annexed documents on the appellant.

8 Except with the leave of the Judicial Committee of the Privy Council, no document shall be introduced in the course of the proceedings on the appeal unless it has been annexed to the petition or to the answer.

9 An appeal shall be set down as soon as the answer has been lodged.

10 A map showing clearly the boundaries of any ecclesiastical area affected by the scheme shall be lodged by the Commissioners before the hearing of the appeal.

11 Where an appellant, having been granted leave to appeal under section 9, fails to lodge his petition of appeal within a period of three months beginning with the date on which he received a notification under paragraph 5 or such extended period as the Registrar of the Privy Council may allow, the Registrar of the Privy Council may by letter notify the Lord President of the Council that the appeal has not been prosecuted, and the appeal shall thereupon stand dismissed for non-prosecution as from the date of the said letter without further order, and a copy of the said letter shall be sent by the Registrar to the appellant or his solicitor and to the Commissioners.

Modifications etc. (not altering text)
C11 Sch. 2 para. 11 amended by S.I. 1991/2684, artS. 1, 2(1), 4, Sch.1

12 All bills of costs under any order of the Judicial Committee, on such appeal shall be referred to the Registrar of the Privy Council for taxation, and such taxation shall be regulated (so far as the same are applicable) by the rules of the Judicial Committee for the time being in force.

13 The Judicial Committee of the Privy Council may give such further directions in matters of practice and procedure affecting applications for leave to appeal, and appeals, under section 9 as they consider just and expedient.

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SCHEDULE 3

Sections 20, 21, 22, 24, 27, 29, 31, 32 and 40.

SUPPLEMENTARY PROVISIONS APPLICABLE TO MATTERS ARISING OUT OF PASTORAL SCHEMES AND ORDERS

Team and group ministries

1 (1) A pastoral scheme establishing a team ministry shall provide for the presentation of the rector of the team ministry, other than the first rector if designated by the scheme, either by a patronage board constituted by the scheme or by the diocesan board of patronage.

(2) Sub-paragraph (1) shall not apply in relation to a benefice of which the bishop is the sole patron, but in that case the pastoral scheme establishing a team ministry for that benefice may provide as mentioned in that sub-paragraph, and if the scheme does not so provide, the bishop shall choose the rector, other than the first rector, if designated by the scheme, and shall collate him to the benefice.

(3) **[**[F119]Any enactment**]**(including this Measure) or rule of law relating to the presentation or collation of incumbents shall apply to any presentation or collation under this paragraph and before the patronage board or the diocesan board of patronage exercise their right of presentation or the bishop exercises his right of collation thereunder they or he, as the case may be, shall consult the other members of the team.

(4) A patronage board constituted by a pastoral scheme establishing a team ministry shall consist of the bishop, who shall be the chairman, and such other member or members as the scheme may provide; and regard shall be had in making such provision to the interests of persons who previously had patronage rights in the benefice for which the team ministry is established or, if it is a new benefice created by the union of two or more benefices, patronage rights in any of the constituent benefices, but it shall not be necessary, in cases where there are pastoral or practical objections, for those persons or all of them to be members of the patronage board.

(5) Without prejudice to the generality of sub-paragraph (4), such a scheme may provide for empowering the bishop to appoint one or more persons, but not exceeding the number specified in the scheme, to be a member or members of the board for such period as the bishop may specify when making the appointment.

(6) The bishop may authorise a suffragan or assistant bishop or archdeacon of the diocese to act for him at any meeting of the board and exercise his voting rights, and any other member of the board (including any body corporate or unincorporated body of persons) may be represented by a person authorised to act and vote on this or their behalf **[**[F120]being a person who has made the declaration of membership within the meaning of the Patronage (Benefices) Measure 1986**]**.

(7) Subject to **[**[F121]sub-paragraph (7A) and**]** paragraph 2(3), a pastoral scheme by which a patronage board is constituted may provide that any member of the board specified in the scheme shall be entitled to such number of votes as may be so specified and that where there is an equal division of votes the bishop, as chairman, shall have a casting vote, but except in so far as the scheme so provides, each member of the board shall be entitled to one vote.

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[[F122](7A) (a) This sub-paragraph applies to every vicar in a team ministry and every member of a team to whom section 20(3A) applies or to whom a special responsibility for pastoral care is assigned under section 20(8A).

(b) Every person to whom this sub-paragraph applies shall have the right to attend at the meetings of the patronage board or the diocesan board of patronage, as the case may be, at which the person to be presented as rector of the team ministry is considered and chosen and shall be entitled between them to one vote, which shall be exercised by such one of them or such two or more of them (acting unanimously or by a majority) as may be present at any such meeting.**]**

(8) A patronage board constituted by such a scheme as aforesaid shall be a body corporate for the purpose of holding the rights of patronage conferred upon them, and shall have a seal, and shall have power to regulate their own procedure.

(9) If the pastoral scheme provides for the **[**[F123]patron to be**]**the diocesan board of patronage, it shall give to persons specified in the scheme rights to attend and vote at the meetings of the board at which the person to be presented is considered and chosen, and regard shall be had in determining the persons to whom those rights are to be given to the interests of the persons mentioned in sub-paragraph (4), but it shall not be necessary, in cases where there are pastoral or practical objections, for those persons or all of them to be given those rights.

(10) The rights to be members of the patronage board or, as the case may be, to attend and vote at sittings of the diocesan board of patronage shall, except where such rights are vested in a person in right of his office or only for life or a term of years, be transferable inter vivos and on death, but in no case shall such rights be saleable and they shall not be deemed to be rights in land.

(11) Persons having the rights mentioned in the last foregoing sub-paragraph shall furnish to the registrar of the diocese particulars thereof, including particulars of any transfer or devolution of the rights concerned, and if they fail to do so their rights may be disregarded for the purposes of this paragraph (including the next sub-paragraph).

(12) Where a pastoral scheme terminates a team ministry, the scheme shall, so far as practicable and having regard to pastoral considerations and to the last foregoing sub-paragraph, provide for restoring rights of patronage in respect of the benefice concerned to the persons who would have possessed them if the team ministry had never been established and, if and so far as it is not practicable to make such provision, shall make other provision for the vesting and exercise of rights of patronage in respect thereof.

[[F124](13) Sub-paragraphs (3) to (11) shall apply in relation to a pastoral scheme or order altering a team ministry under section 22(1)(bb) or 37(e)(v) as they apply in relation to a pastoral scheme establishing a team ministry.**]**

Textual Amendments

F119 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 25**(*a*)(i)

F120 Words inserted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 25**(*a*)(ii)

F121 Words in Sch. 3 para. 1(7) inserted (1.5.1996) by 1995 No. 1, **s. 6(2)(a)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

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F122 Sch. 3 para. 1(7A) inserted (1.5.1996) by 1995 No. 1, **s. 6(2)(b)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

F123 Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 25**(*a*)(iii)

F124 Sch. 3 para. 1(13) inserted (1.5.1996) by 1995 No. 1, **s. 6(2)(c)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

2 (1) A pastoral scheme establishing a team ministry which provides for the presentation of the rector by a patronage board constituted by the scheme or by the diocesan board of patronage may provide for the vicars in that ministry, other than the first holder of any office of vicar therein, if designated by the scheme, to be chosen by the same body.

(2) Where such a scheme provides as aforesaid, the rector of the team ministry [F125]. . . shall have the right to attend and vote at the meetings of the patronage board or the diocesan board of patronage, as the case may be, at which the person to be appointed a vicar in that ministry is considered and chosen.

[[F126](3) (a) This sub-paragraph applies to every vicar in a team ministry and every member of a team to whom section 20(3A) applies or to whom a special responsibility for pastoral care is assigned under section 20(8A).

(b) Where such a scheme provides as aforesaid, every person to whom this sub-paragraph applies shall have the right to attend at the meetings referred to in sub-paragraph (2) and shall be entitled between them to one vote, which shall be exercised by such one of them or such two or more of them (acting unanimously or by a majority) as may be present at any such meeting.**]**

(4) Where such a scheme does not provide as aforesaid, the vicar or vicars in the team ministry, other than the first holder of any office of vicar therein, if designated by the scheme, shall be chosen by the bishop and the rector jointly.

(5) Before the body or other persons who are entitled to choose a person to be a vicar in a team ministry make their choice, they shall consult—

(a) the other members of the team;

(b) the parochial church council of every parish belonging to the benefice for the area of which the team ministry was established; and

(c) if a special cure of souls in respect of a part of the area is to be assigned in accordance with section 20(8)(a) to the vicar, any district church council concerned.

[[F127](6) (a) The body or other persons who are entitled to choose a person to be a vicar in a team ministry shall not make to any person an offer of appointment as such until the making of the offer to the person in question has been approved by the parish representatives.

(b) If, before the expiration of the period of two weeks beginning with the date on which the said body or other persons sent to the parish representatives a request for them to approve under this sub- paragraph the making of the offer to the person named in the request, no notice is received from any representative of his refusal to approve the making of the offer, the representatives shall be deemed to have given their approval under this sub-paragraph.

(c) If any parish representative refuses to approve under this sub- paragraph the making of the offer to the person named in the request, the representative

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shall notify the said body or other persons in writing of the grounds on which the refusal is made.

(d) Where approval of an offer is refused under this sub- paragraph, the said body or other persons may request the archbishop of the province in which the benefice in question is to review the matter and if, after review, the archbishop authorises the said body or other persons to make the offer in question, that offer may be made accordingly.

(7) In sub-paragraph (6) the expression "parish representatives" means two lay members of the parochial church council concerned appointed by that council to act as representatives of the council in connection with the selection of vicars in the team ministry.

(8) Sub-paragraphs (2), (3), (5) and (6) shall apply in relation to a pastoral scheme or order altering a team ministry under section 22(1)(bbb) or section 37(e)(v) as they apply in relation to a pastoral scheme establishing a team ministry.**]**

Textual Amendments

F125 Words in Sch. 3 para. 2(2) omitted (1.5.1996) by virtue of 1995 No. 1, **s. 6(3)(a)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

F126 Sch. 3 para. 2(3) substituted (1.5.1996) by 1995 No. 1, **s. 6(3)(b)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

F127 Sch. 3 para. 2(6)-(8) inserted (1.5.1996) by 1995 No. 1, **s. 6(3)(c)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

[[F128]3 Where a group ministry is established by a pastoral scheme for a group of benefices, the registered patron of a benefice in the group shall consult the other incumbents and any priests in charge in the group before he makes a request under section 13 of the Patronage (Benefices) Measure 1986 for the approval of the parish representatives (as defined in section 11(7) of that Measure), and (unless the registered patron is the bishop) of the bishop, to the making to a priest of an offer to present him to the benefice**]**

Textual Amendments

F128 Sch. 3 para. 3 substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 25**(*b*)

4 (1) Where a pastoral scheme establishes a team ministry, the scheme, or the bishop's licence of any vicar in the team ministry, may assign to any such vicar the duties or a share in the duties of the chairmanship of the annual parochial church meeting and the parochial church council of the parish or any of the parishes in the area of the benefice for which the team ministry is established, and other duties of the minister of the parish under the Church Representation Rules, or a share in such other duties, and the said Rules shall have effect accordingly:

Provided that, if the said duties of chairmanship are to be shared, the arrangements shall be such that the chairman on any occasion is determined in advance so that, in his absence, the vice-chairman of the parochial church council shall take the chair in accordance with the said Rules.

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(2) Where a pastoral scheme establishes a team minustry for the area of a benefice which comprises a parish in which there are two or more churches or places of worship, the scheme may make provision, or authorise the bishop by instrument under his hand with the concurrence of the rector to make provision,—

(a) for ensuring due representation of the congregation of each such church or place of worship on the parochial church council of the parish,

(b) for the election of a district church council for any district in the parish in which such church or place of worship is situated and for the constitution, chairmanship and procedure of that council,

(c) for the functions of the parochial church council of the parish which must or may be delegated to the district church council,

(d) for the election or choice of deputy churchwardens for such church or place of worship and for the functions of churchwardens of the parish which must or may be delegated to the deputy churchwardens,

being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.

In this sub-paragraph "place of worship" means a building or part of a building licensed for public worship according to the rites and ceremonies of the Church of England.

(3) Where a pastoral scheme establishes a team ministry for the area of a benefice which comprises more than one parish, the scheme may make provision, or authorise the bishop by instrument under his hand with the concurrence of the rector to make provision,—

(a) for the establishment of a team council,

(b) for the chairmanship, meetings and procedure of the team council, and

(c) **[**[F129]subject to paragraph 19 of Schedule 2 to the patronage (Benefices) Measure 1986**]**for the functions of the parochial church council of each parish in the area which must or may be delegated to the team council,

being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.

(4) Where a pastoral scheme establishes a group ministry, the scheme may make provision, or authorise the bishop by instrument under his hand with the concurrence of all the members of the group to make provision,

(a) for the establishment of a group council,

(b) for the chairmanship, meetings and procedure of the group council, and

(c) for the functions of the parochial church council of each parish in the area for which the group ministry is established which must or may be delegated to the group council,

being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.

(5) Any provisions which are included in a pastoral scheme or the bishop's instrument by virtue of sub-paragraph (2), (3) or (4) shall cease to have effect at the expiration of such period as may be specified in the scheme or instrument, as the case may be, being a period which does not exceed five years from the date of the establishment of the team ministry or group ministry to which the pastoral scheme or instrument relates, and that period may not be extended or renewed by a subsequent scheme or instrument of the bishop.

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(6) Any provisions which were included in a pastoral scheme or bishop's instrument by virtue of sub-paragraph (2) or (4), as originally enacted, shall cease to have effect at the expiration of whichever of the following periods last expires, that is to say, the period of five years beginning with the date of the establishment of the team ministry or group ministry to which the scheme or instrument relates and the period of three years beginning with the date on which this Measure comes into operation.

Textual Amendments

F129 Words inserted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 25**(*c*)

Admission and induction to benefices

5 (1) Any person who is designated by or selected under a pastoral scheme or order as the incumbent of a benefice, shall not be required to be presented to that benefice nor shall the bishop be required to nominate that person as the person to whom he collates the benefice.

(2) Where a pastoral scheme creates a new benefice or establishes a team ministry for the area of a benefice, then—

(a) if the first incumbent of that new benefice or the first rector of that ministry is designated or selected as aforesaid, he shall, unless the bishop otherwise directs, be deemed to have been admitted to that new benefice or to the benefice for the area of which the team ministry is established, as the case may be, and no fees in respect thereof shall be payable;

(b) in any other case section 75(1) shall apply.

(3) Where a pastoral scheme or order provides for the holding in plurality of two or more benefices, then—

(a) if the first incumbent who is to hold all the benefices concerned was immediately before the scheme or order comes into operation the incumbent of any of those benefices, he shall, unless the bishop otherwise directs, be deemed to have been admitted to the other benefice or benefices, and no fees in respect thereof shall be payable;

(b) in any other case section 75(2) shall apply.

(4) F130

(5) It shall not be necessary, by reason only of the substitution of another church for a parish church by pastoral scheme or order, for the incumbent of the benefice to be inducted in the new parish church or comply with any other process or form of law.

Textual Amendments

F130 Sch. 3 para. 5(4) repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(2), **Sch. 5**

Patronage rights

6 . . . . . F131

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Textual Amendments

F131 Sch. 3 para. 6 repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(2), **Sch. 5**

General provisions as to vesting of property

7 (1) Where a pastoral scheme creates a new benefice by a union of benefices, any church, churchyard, burial ground, parsonage house or other property which was previously vested in right of his benefice in the incumbent of any of the constituent benefices, shall vest in the incumbent of the new benefice:

Provided that—

(a) this sub-paragraph shall not apply to any parsonage house for which other provision is made by or under a pastoral scheme;

(b) if the new benefice is to be held by the provost of a parish church cathedral, any such property as would have vested in the incumbent as aforesaid shall instead vest in the cathedral chapter.

(2) Where by virtue of a pastoral scheme (other than a scheme to which the foregoing sub-paragraph applies) or a pastoral order any church or churchyard or burial ground previously vested in the incumbent of a benefice becomes situated in a parish belonging to another benefice, the church, churchyard or burial ground, and any movable property used for the purposes thereof and vested as aforesaid, shall vest in the incumbent of that other benefice.

(3) Where any movable property used for the purposes of a church or churchyard is vested in the churchwardens or parochial church council of a parish, and the church or churchyard becomes situated in another parish by virtue of a pastoral scheme or order, the property shall vest in the churchwardens or, as the case may be, the parochial church council of that other parish.

(4) The foregoing provisions of this paragraph shall have effect subject to any express provision of a pastoral scheme or order and, where applicable, to the provisions of paragraph 11 relating to property held on charitable trusts.

(5) Where a pastoral scheme or order provides for the transfer of any property to any person, or any property vests by virtue of this paragraph in any person, that property shall, when the transfer or vesting takes effect, vest in that person without any conveyance or other assurance and free and discharged, in the case of property consisting of diocesan glebe land or a house situated on such land, from any previously existing trust in favour of the diocesan stipends fund and, in the case of any other property, from all previously existing trusts and charges in favour of any benefice, but subject—

(a) to the provisions of the next following paragraph, where applicable,

(b) to all other previously existing trusts and charges and any previously existing tenancies, and

(c) in the case of an endowment, to any provision made under section 33(1) for payment or crediting of the income or any part of the income of the endowment to the diocesan stipends fund, unless the scheme or order otherwise provides.

(6) A pastoral scheme or order may with the consent of the incumbrancer provide for the apportionment of any sum charged on property of which only part is transferred

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by the scheme or order and for securing the sums so apportioned on the respective parts of the property.

Modifications etc. (not altering text)

C12 Sch. 3 para. 7(1) amended (30.6.1999) by 1999 No. 1, **ss. 36(2)(6)**, 38(2)(3) (with ss. 33, 34, 37, 38(6))

Loans

8 (1) This paragraph applies to loans made under any Act or Measure, being in each case loans in respect of which principal money or interest is owing to the Commissioners.

(2) Where a loan has been made in respect of property which is transferred by a pastoral scheme or order to the diocesan board of finance then, unless the scheme or order otherwise provides, the **[**[F132]diocesan board of finance shall, if the Commissioners so direct,**]** cause the loan to be discharged immediately out of the diocesan pastoral account or out of the proceeds of any disposal of the property, **[**[F132]and the Commissioners may**]** postpone such discharge, with or without payment of interest on the loan during the period of postponement, for such period and on such conditions as they may from time to time determine.

(3) The Commissioners may, where necessary determine whether a loan and what part of the loan was made in respect of any particular property, and apportion a loan to parts of the property in respect of which it was made.

Textual Amendments

F132 Words in Sch. 3 para. 8(2) substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 8(a)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

Property transferred to diocesan board of finance

9 (1) Where any property is transferred under section 31 by a pastoral scheme or order to the diocesan board of finance for disposal, the board may dispose thereof either as a whole or in parts and at such time or times as they deem right, and their powers shall include powers of sale, letting and exchange of land and power to demolish any building or part thereof so transferred.

(2) The terms on which any such property is sold or otherwise disposed of by the diocesan board of finance shall be approved by the Commissioners **[**[F133], except where the terms of the sale or other disposition would not have required the consent of the Commissioners under section 20 of the Endowments and Glebe Measure 1976 had the property been diocesan glebe land**]**.

(3) Where a pastoral scheme or order provides for the transfer as aforesaid of any property to the diocesan board of finance for disposal, the scheme or order may provide for the application of the net proceeds of disposal (including net premiums and rents) or any part thereof towards the provision, restoration, improvement or repair of a church or a place of worship within the meaning of section 46 or a parsonage house or a house for a vicar in a team ministry or an assistant curate, but, except in so far as the scheme may so provide, the net proceeds shall be paid into the capital account of the diocesan stipends fund or into the diocesan pastoral account,

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or partly into the one and partly into the other, as the diocesan board of finance may determine or as the scheme may provide.

(4) Notwithstanding the foregoing provisions of this paragraph, the diocesan board of finance may elect to take over and hold as part of their corporate property any property transferred to them as aforesaid for disposal, for such consideration as the Commissioners with the concurrence of the board may determine as representing the fair value of the property, and the amount of the consideration shall be applied, paid or credited as if it were the net proceeds of the disposal of the property.

(5) Where a pastoral scheme or order provides for the transfer of any property as aforesaid to the diocesan board of finance for use for diocesan or parochial purposes,

(a) the transfer shall, unless the scheme otherwise provides, be without consideration, and in that case no consideration shall be payable by a parochial church council in respect of the use thereof for parochial purposes;

(b) the board may appoint the parochial church council as managers or managing trustees of any property to be used for parochial purposes.

Textual Amendments

F133 Words in Sch. 3 para. 9(2) inserted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 8(b)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

Crediting of sums to and adjustment of funds and accounts by Commissioners

F134 10 . . . . . .

Textual Amendments

F134 Sch. 3 para. 10 repealed (1.1.2001) by 2000 Measure No. 1, s. 20, **Sch. 8 Pt. I**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

Church and parochial trusts

11 (1) Where any benefice is dissolved by a pastoral scheme, whether in consequence of a union of benefices or otherwise, and any property of a charity established for ecclesiastical purposes of the Church of England is vested in or under the management or control of the incumbent of that benefice (with or without other persons) or a corporation of which he is a member, the trusts of the charity or the constitution of the corporation shall have effect with the substitution for that incumbent of the incumbent of the new benefice created by the union or (in a case arising otherwise than in consequence of a union) of the incumbent of such benefice as may be specified by order of the Charity Commissioners, being a benefice the area of which incorporates part of the area of the dissolved benefice.

(2) Where any parish is dissolved by a pastoral scheme, whether in consequence of a union of parishes or otherwise, and any property of a charity established for the purposes aforesaid is vested in or under the management or control of the churchwardens or parochial church council of that parish (with or without other persons), the trusts of the charity shall have effect with the substitution for those churchwardens or that council of the churchwardens or parochial church council of the parish created by the union or (in a case arising otherwise than in consequence of

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a union) of such parish as may be specified by order of the Charity Commissioners, being a parish which incorporates part of the dissolved parish.

(3) Where—

(a) any property of a charity established for the purposes aforesaid is vested in or under the management or control of the incumbent of a benefice (with or without other persons) or a corporation of which the incumbent of a benefice is a member, and

(b) a team ministry is established by a pastoral scheme for an area comprising the whole or a major part of the area of that benefice,

then, if a special cure of souls in respect of a part of the area for which that ministry is established, being a part which consists of the first mentioned benefice or a major part of the area thereof, is assigned by the scheme or the bishop's licence to a vicar in the team ministry **[**[F135]or, where a special cure of souls is not so assigned, a special responsibility for pastoral care in respect of such a part of that area is assigned to a member of the team under section 20(8A), the trusts of the charity or the constitution of the corporation shall have effect with the substitution for the incumbent of that benefice of that vicar or that member, as the case may be, but, except as aforesaid those trusts and that constitution shall (where necessary) have effect with the substitution for that incumbent of any such member of the team as may be nominated for the purposes of this sub-paragraph by the bishop of the diocese concerned.**]**

(4) Any change under the foregoing provisions in the vesting of property shall take effect without any conveyance or other assurance.

(5) Where a union of benefices or parishes is effected by a pastoral scheme, or the area of a benefice or parish is altered by a pastoral scheme or order, and the purposes of a charity established for the purposes aforesaid are defined by reference to one of the constituent benefices or parishes or, as the case may be, to the benefice or parish affected by the alteration, the trusts of the charity shall (subject to any such scheme as is hereinafter mentioned) have effect with the substitution for that benefice or parish of the benefice or parish created by the union or, as the case may be, of the benefice or parish as altered.

(6) The powers of the Charity Commissioners to make schemes under **[**[F136]section 16 of the Charities Act 1993**]** may, in the case of a charity established for the purposes aforesaid, being a charity whose administration or purposes are affected by a pastoral scheme or order, be exercised on the application of the diocesan board of finance as well as in accordance with that section.

(7) Any schemes or orders made by the Charity Commissioners for purposes arising in connection with a pastoral scheme or order may be made before the date on which the pastoral scheme or order comes into operation, but not so as to take effect before that date.

(8) Where, by reason of the dissolution of a parish by a pastoral scheme, the parochial church council of that parish ceases to exist then, if and so far as any property vested in, or held on behalf of, that council is not dealt with under the foregoing provisions of this paragraph, the property shall, without any conveyance or other assurance, vest in or be held on behalf of the parochial church council of the parish in which the parish church of the dissolved parish, or the site of that church, is situated, for the like purposes, as nearly as may be, as those for which it was previously applicable in the hands of the first mentioned council.

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Any question arising as to the application of any such property or the income thereof shall be referred to the bishop of the diocese, whose decision shall be final and conclusive.

(9) Where, as a condition of any benefaction, attendance at or the performance of Divine Service or any other act is required at any church, and that church ceases in consequence of a declaration of redundancy made by a pastoral scheme to be used for Divine Service, and the case is not provided for under the foregoing provisions of this paragraph, the parish church of the parish in which the first mentioned church or the site thereof is situated shall be substituted for the first-mentioned church for the purpose of the performance of the required act.

(10) The provisions of this paragraph shall not apply to any fund or property for which provision is made under section 63.

Textual Amendments

F135 Words in Sch. 3 para. 11(3) substituted (1.5.1996) by 1995 No. 1, **s. 6(4)**; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York.

F136 Words in Sch. 3 para. 11(6) substituted (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), **Sch. 6 para. 18(5)**

Parochial church meetings and councils

12 (1) A pastoral scheme which creates a new parish may make provision, or authorise the bishop by instrument under his hand to make provision, for ensuring that the congregation of every church or place of worship in the new parish will have its own elected representatives of the laity on the parochial church council of that parish.

(2) Any provision included in a pastoral scheme or the bishop's instrument by virtue of sub-paragraph (1) shall cease to have effect at the expiration of such period as may be specified in the scheme or instrument, as the case may be, being a period which does not exceed five years beginning with the date on which the new parish comes into being, and that period may not be extended or renewed by a subsequent pastoral scheme or instrument of the bishop.

(3) Any such provision shall have effect notwithstanding anything in the Church Representation Rules.

(4) Without prejudice to any general rule of law relating to parochial church councils, the powers, duties and liabilities set out in section 4(1)(ii) of the [M39]Parochial Church Councils (Powers) Measure 1956 shall continue to apply to any church which was formerly a parish church and becomes a chapel of ease as the result of a pastoral scheme or order, and to the churchyard of any such church, except so far as the scheme or order otherwise provides.

Marginal Citations

M39 1956 No. 3.

13 (1) Where a pastoral scheme provides for two or more parishes to be comprised in the area of a single benefice or a pastoral scheme or order provides for two or more benefices to be held in plurality, the scheme or order may make provision,

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or authorise the bishop by instrument under his hand with the concurrence of the incumbent of the benefice or benefices to make provision,—

(a) for establishing a joint parochial church council for all or some of the parishes of the benefice or benefices;

(b) for the chairmanship, meetings and procedure of that council; and

(c) **[**[F137]subject to paragraph 20 of Schedule 2 to the Patronage (Benefices) Measure 1986,**]**for the functions of the parochial church council of any such parish which must or may be delegated to the joint parochial church council,

being provisions to the same effect as those which may be made by a scheme under the Church Representation Rules in the like case.

(2) Subject to sub-paragraph (4), any provisions which are included in a pastoral scheme or order or the bishop's instrument by virtue of sub-paragraph (1) shall cease to have effect at the expiration of such period as may be specified in the scheme, order or instrument, being a period which does not exceed five years from the date on which the scheme or order, as the case may be, came into operation, and that period may not be extended or renewed by a subsequent pastoral scheme, pastoral order or instrument of the bishop.

(3) Subject to sub-paragraph (4), any provisions which were included in a pastoral scheme or order by virtue of this paragraph as originally enacted, shall cease to have effect at whichever of the following periods last expires, that is to say, the period of five years beginning with the date of the establishment of the joint parochial church council to which the scheme or order relates and the period of three years beginning with the date on which this Measure comes into operation.

(4) Where the provisions of a pastoral scheme or order for the holding of benefices in plurality are terminated under section 18(2), any provision of a pastoral scheme or order or the bishop's instrument establishing a joint parochial church council for all or some of the parishes of those benefices and the other provisions thereof affecting that council shall cease to have effect on the date on which the first mentioned provisions cease to have effect.

Textual Amendments

F137 Words inserted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 25**(*d*)

Marriages and banns of matrimony

14 (1) Section 10(1) of the [M40]Marriage Act 1949 (which provides for the completion in a church of the publication of banns of matrimony commenced in another church) shall have effect as if this Measure were included among the Measures therein mentioned.

(2) Where, after the completion of the publication of the banns in any church, another church has by virtue of any provision of this Measure or anything done thereunder become a church in which banns of matrimony could be published in relation to the parties to the intended marriage, the marriage may be solemnised in that other church.

(3) Where a declaration of redundancy is made in respect of a chapel of ease, any licence relating to that chapel granted under section 20 of the Marriage Act 1949 (licensing of chapels for publication of banns of matrimony, etc.) shall be deemed to have been revoked under that section.

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(4) Section 23 of the [M41]Marriage Act 1949 (which empowers the bishop to direct, in the case of benefices held in plurality, where banns of matrimony of persons entitled to be married in any church of those benefices may be published and where marriages of those persons may be solemnised) shall also apply, subject to the necessary modifications, to a case where by virtue of any provision of this Measure or anything done thereunder there are two or more parishes or parish churches in the area of a single benefice.

(5) Where after the issue of a common licence for the solemnisation of the marriage in any church, another church has by virtue of any provision of this Measure or anything done thereunder taken the place of that church as a church in which the marriage of the parties concerned ought to be solemnised in pursuance of a common licence, the marriage may be solemnised in that other church.

Marginal Citations

M40 1949 c. 76.

M41 1949 c. 76.

Burial rights in new or altered parishes

15 (1) On a union of parishes by virtue of a pastoral scheme the persons residing within the limits of the parish thereby created shall have the rights and privileges (if any) of parishioners in respect of burials in that parish:

Provided that any such parishioner who, before the union took effect, had any rights of burial in a churchyard within the limits of a constituent parish shall, so long as that churchyard remains open for interments, continue to have those rights and shall not become entitled by virtue of the union to rights of burial in any other churchyard.

(2) On the creation, otherwise than by union, of a new parish by a pastoral scheme, the persons residing within the limits of the new parish shall continue to have the same rights and privileges in respect of burials which they enjoyed before the creation of the new parish, but such rights shall cease when they obtain rights of burial as parishioners of the new parish.

(3) Where any persons by virtue of a pastoral scheme or order providing for the alteration of parochial boundaries come to reside within a different parish, they shall have such rights and privileges in respect of burials as are possessed by parishioners of that different parish and not any others.

Provisions relating only to pastoral schemes affecting diocesan boundaries

16 (1) Where a benefice or parish or extra-parochial place is transferred from one diocese to another by a pastoral scheme,—

(a) any property vested in the diocesan board of finance of the old diocese and held for ecclesiastical purposes relating solely to the benefice or parish or place transferred shall vest in the diocesan board of finance of the new diocese and be held for those purposes;

(b) all documents and maps in the custody of the registrar or other officer of the old diocese and relating solely to the benefice or parish or place

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transferred shall be transferred to the register or corresponding officer of the new diocese;

(c) any licence granted by the bishop of the old diocese shall, so far as it relates to the benefice or parish or place transferred or any church therein, be deemed for all purposes to have been granted by the bishop of the new diocese;

(d) any order, direction or action made, given or taken by the bishop or the diocesan board of finance or any clerical or lay officer or body of the old diocese with respect to the benefice or parish or place transferred or any property thereof shall be deemed to have been made, given or taken by the bishop, diocesan board of finance or corresponding clerical or lay officer or body of the new diocese;

(e) the power of the diocesan board of finance to apply under paragraph 11(6) for a scheme under **[**[F138]section 16 of the Charities Act 1993**]** shall be exercisable by the board of either diocese.

(2) Where part of the area of a benefice or part of a parish or extra-parochial place is transferred as aforesaid, the foregoing sub-paragraph shall apply as if the references to the benefice or parish or place transferred were references to the part transferred.

(3) Where a pastoral scheme or order makes any alteration of diocesan boundaries, the Commissioners may make, as respects each of the dioceses affected after consultation with the diocesan board of finance of each of those dioceses, such adjustments as they consider desirable in **[**[F139]any**]**fund, account or allocation held or made by them **[**[F140] and the diocesan board of finance of each of those dioceses shall make such adjustments in the capital or income accounts of the diocesan stipends fund or the diocesan pastoral account as the Commissioners, after consultation with the diocesan board of finance of each of those dioceses, may direct.**]**.

(4) In this paragraph the expression "old diocese" and "new diocese" shall respectively mean the diocese from which and the dioceses to which the benefice, parish or extra-parochial place or part thereof is transferred.

Textual Amendments

F138 Words in Sch. 3 para. 16(1)(e) substituted (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), **Sch. 6 para. 18(5)**

F139 Word in Sch. 3 para. 16(3) substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 8(c)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

F140 Words in Sch. 3 para. 16(3) inserted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 8(c)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

SCHEDULE 4

Section 26.

COMPENSATION OF CLERGY

1 The incumbent of a benefice dissolved by a pastoral scheme or deemed to be vacated by virtue of section 25, the archdeacon of an archdeaconry dissolved by a pastoral scheme and the holder of an office of vicar in a team ministry whose office is abolished by or as the result of a pastoral scheme or order, shall be entitled to compensation for any loss suffered by him in consequence of the dissolution or vacation of the benefice or archdeaconry or the abolition of the office, as the case may be.

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2 Where the incumbent of a benefice for which a team ministry is established is designated or appointed the first rector in the team ministry, but the scheme provides that his office shall be held for a term of years, the incumbent shall, if he is required to vacate his office on the expiration of any term for which it is held, be entitled to compensation for any loss suffered by him in consequence thereof.

3 Where the incumbent of a benefice, being a benefice for the area of which a team ministry is established or a benefice dissolved by a pastoral scheme, is designated or chosen as the first holder of any office of vicar in a team ministry, he shall, if he is required to vacate the office on the expiration of any term for which it is held, be entitled to compensation for any loss suffered by him in consequence thereof.

4 If the incumbent of any benefice or the archdeacon of an archdeaconry or a vicar in a team ministry agrees with the pastoral committee that, if he resigns his benefice, archdeaconry or office in order to enable a pastoral scheme or order to come into operation or to facilitate its coming into operation, compensation will be payable for any loss suffered by him in consequence of his resignation, he shall be entitled, on resignation after the confirmation of the scheme by Order in Council or the making of the order, as the case may be, to compensation for any such loss.

5 Without prejudice to the generality of the foregoing provisions, the loss suffered by any such incumbent or archdeacon or vicar as aforesaid shall include loss arising from his ceasing to occupy the parsonage house or other official residence of the incumbent, archdeacon or vicar and any expenses arising from his change of residence.

6 The right to and the amount of compensation payable under this Schedule shall be determined in the first instance by the pastoral committee, but the person claiming the compensation (hereinafter called "the claimant") shall have a right of appeal to the Appeal Tribunal constituted under this Schedule for the relevant province.

7 (1) The compensation shall consist of periodical payments or a lump sum payment, or partly of one and partly of the other, and compensation in the form of periodical payments shall not be assignable.

(2) The pastoral committee may, pending the final determination of a claim for compensation, make payments on account to the claimant.

8 In determining whether any claimant has suffered loss giving a right to compensation and, if so, the amount thereof, the pastoral committee and the Appeal Tribunal—

(a) shall take into account the emoluments of any ecclesiastical office (including another benefice) to which the claimant has been or is to be appointed, or of any other regular remunerated employment in which he is or is to be engaged; and

(b) if he refuses without good and sufficient reason to accept an ecclesiastical office which in the opinion of the committee or Tribunal is reasonably comparable to the benefice or office in respect of which the compensation is claimed, may take into account the emoluments of the office so refused.

9 If any person who is receiving compensation under this Schedule in the form of periodical payments is appointed to any ecclesiastical office or becomes engaged in any remunerated employment, or refuses any such office as is mentioned in sub-paragraph (b) of the last foregoing paragraph, the pastoral committee may suspend the periodical payments or reduce the amount thereof, having regard to the

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emoluments of the office, but the person affected shall have a right of appeal to the Appeal Tribunal.

10 Any person who has been refused compensation under this Schedule or is receiving or has received such compensation may apply to the pastoral committee for a grant or renewal of such compensation or, as the case may be, an increase of such compensation (whether by way of an increase of periodical payments or a lump sum payment or both), on the ground that circumstances of which account was taken under paragraph 8 or paragraph 9 have materially altered to his disadvantage, and the pastoral committee may grant or renew such compensation or make such increase thereof on that ground, and an appeal shall lie to the Appeal Tribunal against the refusal of any such application.

11 If any person who is claiming or receiving or has received compensation under this Schedule—

(a) executes a deed of relinquishment under the [M42]Clerical Disabilities Act 1870; or

(b) becomes a member of a religious body which is not in communion with the Church of England; or

(c) becomes disqualified under the Ecclesiastical Jurisdiction Measures 1963 and 1974 from holding preferment in the Church of England;

the pastoral committee may refuse the claim or, as the case may be, may order, subject to a right of appeal to the Appeal Tribunal, that no further payment of compensation shall be made to him under this Schedule.

Marginal Citations

M42 1870 c. 91.

12 It shall be the duty of every claimant and every applicant under paragraph 10 and every person who is receiving compensation under this Schedule by way of periodical payments, to disclose to the pastoral committee any ecclesiastical office to which he has been appointed or which has been offered to him, and any other remunerated employment in which he is or is to be engaged, and any such matter as is mentioned in the foregoing paragraph, and if he fails to do so and it appears to the pastoral committee that in consequence they have made payments which otherwise they would not have made or payments in excess of those that they would otherwise have made, they may, without prejudice to their powers under paragraphs 9 and 11, direct the repayment of the amount of the payments or excess or such part thereof as they think just, and that amount shall be recoverable as a debt due to the diocesan board of finance:

Provided that an appeal shall lie to the Appeal Tribunal against any such direction.

13 (1) Subject as hereinafter provided, where any benefice, archdeaconry or office is dissolved, abolished, vacated or resigned in the circumstances mentioned in paragraphs 1 to 4—

(a) any period thereafter and before his retirement during which he is not in pensionable service within the meaning of the [M43]Clergy Pensions Measure 1961 shall be deemed for the purposes of the said Measure and this paragraph to be a period of pensionable service, except that any period after the happening of any of the events mentioned in paragraph 11 and, in the case

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of a vicar in a team ministry, any period after the date on which his term of office would have ended, shall be excluded;

(b) on attaining the retiring age within the meaning of the said Measure, he shall be deemed to retire for the purposes of the said Measure and this paragraph, unless he is then in actual pensionable service, and, if his total period of pensionable service is less than the qualifying period of such service for the purposes of the said Measure, it shall be deemed to be increased to that period;

(c) the pastoral committee may, if he is deemed to retire as aforesaid and his total period of pensionable service is less than the prescribed period, add to his pension and the pension (if any) of his **[**[F141]surviving spouse**]** or dependent periodical payments not exceeding the amount necessary to bring the pension up to the amount that it would have been if the total period had been the prescribed period.

In this sub-paragraph "the prescribed period", in relation to a person who is deemed to retire for the purposes of the said Measure and this paragraph, means the minimum period of pensionable service the performance of which by him would entitle him to a pension at the highest rate applicable in his case.

(2) The foregoing provisions of this paragraph shall apply in relation to any lump sum payable in accordance with any rules made under section 3 of the [M44]Clergy Pensions (Amendment) Measure 1967 to a person entitled to a pension under the said Measure of 1961 as they apply in relation to a pension thereunder.

(3) The pastoral committee may, with the agreement of the Church of England Pensions Board and the incumbent, archdeacon or vicar in a team ministry or (if he is dead) his **[**[F141]surviving spouse**]** or dependant make such modification of the provisions of this paragraph or substitute such other provisions as may appear to the committee to be more appropriate to the particular circumstances of the case and not less advantageous to the incumbent, archdeacon or vicar or his **[**[F141]surviving spouse**]** or dependant.

(4) Compensation shall not be payable for any loss which the incumbent, archdeacon or vicar in a team ministry might suffer by reason of the provision in sub-paragraph (1)(b) that on attaining the retiring age within the meaning of the said Measure of 1961 he is deemed to retire for the purposes of that Measure and this paragraph, and, except as provided by sub-paragraph (1)(c), compensation shall cease to be payable when he attains that age.

(5) In determining the amount of the compensation, if any, to which the incumbent, archdeacon or vicar in a team ministry is entitled under this Schedule in respect of any period before he retires or is deemed to retire for the purposes of the said Measure of 1961 and this paragraph, any benefit which may accrue to him by virtue of sub-paragraph (1) shall be disregarded.

(6) Any reference in this paragraph to the said Measure of 1961 shall be construed as a reference to that Measure, as amended by any regulations approved under section 6 of the [M45]Clergy Pensions (Amendment) Measure 1972.

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Textual Amendments

F141 Words in Sch. 4 para. 13(1)(c)(3) substituted (1.2.1994) by 1993 Measure No. 2, s. 10, **Sch. 3 para.8**; Instrument dated 31.1.1994 made by Archbishops of Canterbury and York

Marginal Citations

M43 1961 No. 3.
M44 1967 No. 1.
M45 1972 No. 5.

14 (1) The functions of the pastoral committee under this Schedule shall not be delegated to a sub-committee.

(2) At any meeting of the pastoral committee at which a determination or decision under this Schedule is made or at which the person affected by such a determination or decision is interviewed, the members present shall include—

(a) either the bishop or a suffragan bishop, and

(b) the member representing the diocesan board of finance:

Provided that, if the last-mentioned member is not available for any meeting, another member or officer of the said board (who need not be a member of the pastoral committee) may be nominated by the board to act in the place of the said member at the meeting.

15 (1) For the purposes of this Schedule there shall be an Appeal Tribunal for each of the Provinces of Canterbury and York, which shall be constituted as follows:—

(a) The Dean of the Arches and Auditor shall be the chairman and the Vicar-General of each of the Provinces of Canterbury and York shall be deputy chairmen and one or other of the three (but not more than one) shall sit on each appeal and shall preside:

Provided that if none of the three is available to preside over an appeal, a chancellor of a diocese nominated by the Dean of the Arches and Auditor or, in his absence or illness, by the Vicar-General of the Province concerned shall preside over the appeal.

(b) A panel of twelve persons shall be appointed **[**[F142]from among the members of the Lower House of the Convocation of the Province concerned by, in the case of the Convocation of Canterbury, the Standing Committee of the Lower House and, in the case of the Convocation of York, the body of Assessors of the Lower House of that Convocation**]**, in such manner as that House may determine, and four persons from the panel shall be nominated as aforesaid for each appeal.

(c) A panel of twelve persons shall be appointed by **[**[F143]the Standing Committee of**]** the House of Laity of the General Synod from among the members of that House, in such manner as that House may determine, not less than one-half of whom **[**[F144]have a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)**]**, and two persons from the panel shall be nominated as aforesaid for each appeal.

(2) **[**[F145]The persons appointed from among the members of**]** the Lower House of the Convocations or the House of Laity as aforesaid shall be appointed for the lifetime of those Convocations or that House of Laity and, on a casual vacancy, another member

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of the House concerned shall be appointed in **[**[F145]place of the person vacating office, in the same manner as that person was appointed**]**, for the remainder of that lifetime:

Provided that the persons appointed as aforesaid shall, when a new House falls to be elected, continue to hold their appointments until the first Session of the new House, and any such person who has heard the whole or a part of an appeal may continue as a member of the Tribunal until the determination thereof.

(3) The Commissioners shall appoint a secretary to the Appeal Tribunal for each province, and the same person may be appointed for both Tribunals.

(4) The expenses of an Appeal Tribunal in connection with any appeal shall be paid out of moneys standing to the credit of the diocesan pastoral account of the diocese from which the appeal is brought.

Textual Amendments

F142 Words in Sch. 4 para. 15(1)(b) substituted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 23(a)**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

F143 Words in Sch. 4 para. 15(1)(c) inserted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 23(b)**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

F144 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 54**

F145 Words in Sch. 4 para. 15(2) substituted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 23(c)**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

16 (1) The Commissioners may make rules prescribing the procedure to be followed in claiming and determining rights to and amounts of compensation under this Schedule, and in altering, terminating or suspending payments of compensation, **[**[F146]and also (except so far as it is regulated by rules made under **[**[F147]the Church of England (Legal Aid) Measure 1994**]**) the procedure in proceedings before the Appeal Tribunal and in any other proceedings under this Schedule.**]**

(2) Rules made in pursuance of this paragraph shall be laid before the General Synod, and shall not come into operation unless and until they have been approved by the General Synod; and the [M46]Statutory Instruments Act 1946 shall apply to any rules so approved as if they were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F146 Words substituted by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 14(1), **Sch. 2 para. 4**.

F147 Words in Sch. 4 para. 16(1) substituted (1.9.1994) by 1994 No. 3, s. 7(2), **Sch. 2 para. 2**; Instrument dated 25.7.1994 made by Archbishops of Canterbury and York.

Marginal Citations

M46 1946 c. 36.

17 . . . . . [F148]

Status: *Point in time view as at 01/02/2001.*
Changes to legislation: *Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F148 Sch. 4 para. 17 repealed by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 18(2), **Sch. 3**

18 Payments of compensation under this Schedule shall be made by the diocesan board of finance and charged either on the capital or the income account of the diocesan stipends fund, as may be **[**[F149]determined by the board after consultation with the Commissioners.**]**.

Textual Amendments

F149 Words in Sch. 4 para. 18 substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 9**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

SCHEDULE 5

Sections 41, 42 and 44.

STATUTORY BODIES APPOINTED FOR PURPOSES OF PART III OF MEASURE

Advisory Board for Redundant Churches

1 Neither the chairman nor any other member of the Advisory Board for Redundant Churches shall be a member of the Board of Governors of the Church Commissioners or of any committee constituted by the [M47]Church Commissioners Measure 1947, as amended by the [M48]Church Commissioners Measure 1964, or appointed by the said Board of Governors, or of the pastoral committee of any diocese.

Marginal Citations

M47 1947 No. 2.
M48 1964 No. 8.

2 The members of the Advisory Board for Redundant Churches shall hold office in accordance with the terms of their appointment and any member shall, on ceasing to hold office, be eligible for re-appointment.

3 The Board may act notwithstanding a vacancy among its members.

4 The quorum of the Board shall be three or such greater number as the Board may determine, and the Board shall regulate its own procedure.

Diocesan redundant churches uses committees

5 The diocesan redundant churches uses committee of a diocese shall consist of—

(a) a chairman to be appointed by the bishop;
(b) a member to be appointed by the diocesan board of finance;
(c) a member to be appointed by the pastoral committee;

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(d) a member to be appointed by the diocesan advisory committee for the care of churches after consultation with the Council for the Care of Churches;

(e) such other members not exceeding three as the bishop's council and standing committee of the diocese may appoint, at least one of whom shall be a member of the diocesan synod.

6 The chairman and other members of the committee shall hold office for five years, but shall be eligible for re-appointment on the termination of any period of office.

7 The bishop may appoint, or the committee may co-opt, other members upon terms limiting their functions to specified matters.

8 The bishop may appoint a member of the committee who is to have special responsibility for giving advice as to the manner in which the contents of any church to which a redundancy scheme applies shall be disposed of.

9 Any of the bodies by whom a member of the committee is appointed under paragraph 5 may appoint another person to act as alternate to the member so appointed.

10 The secretary of the committee shall be appointed by the diocesan board of finance.

11 The committee may act notwithstanding any vacancy among its members.

12 The quorum of the committee shall be three or such greater number as the committee may determine, and the committee shall regulate its own procedure.

Redundant Churches Fund

13 The members of the Redundant Churches Fund shall hold office in accordance with the terms of their appointment, and any member shall, on ceasing to hold office, be eligible for re-appointment.

14 The Fund may act notwithstanding any vacancy among its members.

15 The quorum of the Fund shall be three or such greater number as the Fund may determine, and the Fund may regulate its own procedure.

SCHEDULE 6

Section 65.

DISPOSAL OF HUMAN REMAINS

Modifications etc. (not altering text)

C13 Sch. 6 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.

1 The body or person in whom the building, part of a building or land in question is vested or to whom it is leased or licensed (hereinafter referred to as "the landowner") shall, before removing any human remains or any tombstones, monuments or memorials commemorating the deceased persons—

(a) publish in a newspaper circulating in the locality a notice of intention to do so at least once during each of two successive weeks; and

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(b) display a like notice in a conspicuous place where the remains are interred; and

(c) serve a like notice on the bishop and on the Commonwealth War Graves Commission (hereinafter referred to as "the Commission"); and

(d) if the remains were interred within twenty-five years before the date of the first publication of the notice, serve a like notice on the personal representatives or next of kin (or, in the event of their being untraceable, any known relative) of the deceased person.

2 Any notice required to be published and served as aforesaid shall contain—

(a) the address at which particulars of the deceased persons and of any tombstones, monuments or other memorials commemorating them may be inspected;

(b) the name of the burial ground or crematorium where it is proposed to reinter or cremate such remains and the manner in which it is proposed to dispose of such tombstones, monuments or other memorials;

(c) a statement as to the right of the personal representatives or relatives of any deceased person or, in relation to any commonwealth war burial, the Commission on notice in writing given within a specified time themselves to undertake the removal and reinterment or cremation of the remains of the deceased, and the disposal of any tombstone, monument or other memorial commemorating the deceased within two months from the date of the notice;

(d) a statement of any directions given by the Secretary of State with respect to the removal and reinterment or cremation of human remains, and of any requirements imposed by the bishop with respect to the manner of removal, the place and manner of reinterment or cremation, and the disposal of tombstones, monuments and other memorials;

(e) a statement as to the extent to which the landowner is required by this Schedule to defray the expenses of such removal and reinterment or cremation or disposal.

3 (1) The personal representatives or relatives of any deceased person whose remains are interred in the land or, in the case of any commonwealth war burial, the Commission may, on giving the required notice, themselves remove and reinter any such remains or cremate them in any crematorium and may dispose of any tombstone, monument or other memorial commemorating the deceased, and the landowner shall defray the **[**[F150]reasonable cost of such removal and reinterment or cremation or disposal; and if any question arises as to what is a reasonable sum for that purpose the decision of the Commissioners shall be conclusive**]**.

(2) If the removal and reinterment or cremation or disposal, as the case may be, has not been carried out by the personal representatives or relatives or the Commission in accordance with the provisions of this Schedule within two months from the date of the required notice, the landowner may carry out the removal and reinterment or cremation or disposal as if the required notice had not been given.

Textual Amendments

F150 Words in Sch. 6 para. 3(1) substituted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para.24**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

Status: *Point in time view as at 01/02/2001.*
Changes to legislation: *Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

4 Any human remains interred in the building or land which have not been removed and reinterred or cremated by the personal representatives or relatives of the deceased person or the Commission within the said two months shall, on removal by the landowner, be reinterred in such land as may be indicated as being reasonably available for the purpose by the bishop, and failing any such land being so indicated, shall be reinterred in any cemetary or burial ground or shall be cremated in any crematorium.

5 Any tombstone, monument or other memorial commemorating any deceased person whose remains are reinterred or cremated in accordance with the provisions of the last preceding paragraph may, where reasonably practicable, be removed and re-erected by the landowner over the grave in the burial ground where the remains are reinterred or on some other appropriate site.

6 Any tombstone, monument or other memorial not disposed of in accordance with paragraph 3 or 5 may with the agreement of the bishop given after consultation with the diocesan advisory committee for the care of churches be allowed to remain where it is or be removed and re-erected in such place in the building or land as the bishop may direct.

7 The removal of all human remains shall be effected, and the remains reinterred or cremated, in accordance with the directions of the Secretary of State.

8 Upon any removal of remains a certificate of removal and reinterment or cremation shall be sent to the Registrar General by the landowner giving the dates of removal and reinterment or cremation respectively and identifying the place from which the remains were removed and the place in which they were reinterred or cremated showing the particulars of each removal separately, and every such certificate shall be deposited at the General Register Office with the miscellaneous records in the custody of the Registrar General.

9 Any tombstone, monument or other memorial not disposed of in accordance with this Schedule shall be offered by the landowner to the bishop for disposal as he thinks fit, and the bishop shall consult the diocesan advisory committee for the care of churches with respect to such disposal and if the tombstone, monument or other memorial is not accepted by the bishop for preservation it shall be broken and defaced before being otherwise disposed of.

10 Where any tombstone, monument or other memorial is removed from the land, the landowner shall within two months from the date of removal—

(a) deposit with the council of the district, or in the case of land in Greater London with the Common Council of the City of London, or the council of the London borough, a record of the removal with sufficient particulars to identify the memorial (including a copy of any inscription thereon) and showing the date and manner of its removal and disposal and the place (if any) to which it is transferred;

(b) send to the Registrar General a copy of such record for deposit with the miscellaneous records in the custody of the Registrar General.

11 The requirements of this Schedule shall be in addition to such reasonable conditions if any as may be imposed in the case of consecrated ground by the bishop with respect to the manner of removal and the place and manner of reinterment or cremation of any human remains and the disposal of any tombstones, monuments or other memorials, and such conditions shall be complied with as if they formed part of this Schedule.

Status: *Point in time view as at 01/02/2001.*
Changes to legislation: *Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

12 In this Schedule "commonwealth war burial" means a burial of any member of the forces of His Majesty fallen in the war of 1914-1921 or in the war of 1939-1947.

SCHEDULE 7

Section 68.

SEQUESTRATION OF BENEFICE PROPERTY DURING SUSPENSION PERIOD

1 **[**[F151]During any suspension period the sequestrators**]** in addition to exercising any powers vested in them by the [M49]Benefices (Sequestrations) Measure 1933 or by the general law relating to sequestrations, may, with the consent of the bishop, exercise in relation to any property of the benefice any other power which an incumbent would have if the benefice were full, not being a power which by the provisions of any Act or Measure is exercisable during a vacancy by the bishop or the Commissioners.

Textual Amendments

F151 Words in Sch. 7 para. 1 substituted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 25(a)**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

Marginal Citations

M49 1933 No. 4.

2 (1) Notwithstanding anything to the contrary contained in any Act or Measure, the sequestrators shall, subject to the provisions of sub-paragraph (2), apply the income of the benefice accruing during the vacancy—

(a) in payment to the bishop of all expenses incurred by him under sections 67 and 68;

(b) in payment of all expenses properly incurred in the collection of the income of the benefice;

(c) in payment of all expenses incurred in making provision for the performance of the ecclesiastical duties of the benefice, including that of accommodation;

(d) in payment of all expenses properly incurred in the exercise of the powers or the performance of the duties by law belonging to sequestrators or conferred or imposed on them by the Benefices (Sequestrations) Measure 1933, or by this Measure, including the payment of any sequestrator who is professionally qualified his proper professional charges for work undertaken by him;

(e) in payment of the stipend and expenses of accommodation of an assistant curate.

(2) During the course of the suspension period the sequestrators may, with the consent of the bishop, and shall, on the direction of the bishop, pay part of the balance in their hands to the **[**[F152]diocesan board of finance**]**.

(3) At the close of the sequestration the sequestrators shall pay the balance in their hands, as certified by the bishop or some person duly authorised by him, to the **[**[F152]diocesan board of finance**]**.

Status: *Point in time view as at 01/02/2001.*
Changes to legislation: *Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F152 Words in Sch. 7 para. 2(2)(3) substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 10**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

3 Moneys received by the **[**[F153]diocesan board of finance**]** from the sequestrators under paragraphs 2(2) or (3) shall be allocated to the income account of the diocesan stipends fund.

Textual Amendments

F153 Words in Sch. 7 para. 3 substituted (1.1.2001) by 2000 Measure No. 1, s. 10, **Sch. 6 para. 10**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

[[F154]4 Where a suspension period immediately follows a period during which a benefice has been vacant, the foregoing provisions of this Schedule shall apply to any balance in the hands of the sequestrators at the beginning of the suspension period as if it were income of the benefice accruing during that period.**]**

Textual Amendments

F154 Sch. 7 para. 4 substituted (1.6.1992) by Church of England (Miscellaneous Provisions) Measure 1992 (No. 1), s. 17(1), **Sch. 3 para. 25(b)**;Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

5 The sequestrators shall annually at such date as the bishop may direct and as soon as possible after the close of the sequestration render to the bishop duly audited income and expenditure accounts and shall furnish such information with respect thereto as the bishop may require.

6 Where, on the termination of a suspension period in respect of any benefice, there immediately follows a further period during which the profits of the benefice are sequestrated, the suspension period shall, for the purposes of this Schedule, be deemed to extend to and include that further period.

SCHEDULE 8

Transitional Provisions

1 (a) Any pastoral scheme, pastoral order or redundancy scheme which is pending at the commencement of this Measure shall continue to be dealt with up to and including the date of confirmation of the scheme or the making of the Order as though this Measure had not been passed.

(b) Section 24(3) of the [M50]Pastoral Measure 1968 shall continue to apply to a pastoral scheme which is pending at the commencement of this Measure, and section 25(3) of this Measure shall not apply thereto.

Status: *Point in time view as at 01/02/2001.*
Changes to legislation: *Pastoral Measure 1983 (repealed) is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations
M50 1968 No. 1.

2 If before the commencement of this Measure any notice has been served under paragraph 1(c) of Schedule 6 to the Pastoral Measure 1968, containing the statement required by paragraph 2(c) of that Schedule, the requirements of paragraphs 1(c) and 2(c) of Schedule 6 of this Measure shall be treated as having been complied with for the purposes of section 65 of this Measure.

3 Where immediately before the commencement of this Measure any person lawfully held more than one office by virtue of the first paragraph of section 88(5) of the Pastoral Measure 1968, he shall be entitled to continue to hold those offices, in accordance with that paragraph, notwithstanding anything in section 85 of this Measure; but if he accepts and is admitted to another office this paragraph shall cease to apply to him and, if he then holds offices in contravention of section 85, he shall be deemed to vacate the office or offices held by him before his admission to the new office.

4 Section 15 of the [M51]Reorganisation Areas Measure 1944 shall continue to apply to annuities granted thereunder and still payable immediately before the commencement of this Measure.

Marginal Citations
M51 1944 No. 1.

5 Where any such scheme or order as is mentioned in paragraph 9(1) is not in operation at the commencement of this Measure because its operation is dependent on the occurrence of a vacancy or vacancies in any benefice or benefices, and the incumbent of the benefice or any of the benefices concerned agrees with the pastoral committee that, if he resigns the benefice, compensation will be payable for any loss suffered by him in consequence of his resignation, he shall be entitled on resignation to compensation determined in accordance with Schedule 4 to the [M52]Pastoral Measure 1968 for any such loss.

Marginal Citations
M52 1968 No. 1.

6 Where a building has been declared redundant before the commencement of this Measure in a case falling within section 49(1), the period which must elapse before the Commissioners prepare a redundancy scheme shall be twelve months and in such a case, for the reference in section 50(1) to six months, there shall be substituted a reference to twelve months.

7 In any case where, before the commencement of this Measure—

(a) proposals have been submitted to the Commissioners under Part I of the Pastoral Measure 1968, or

(b) a request has been made for an enquiry under Part I of the Incumbents (Vacation of Benefices) Measure 1977,

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the right of any person to compensation for any loss suffered in consequence thereof and the amount of any such compensation shall be determined as though this Measure had not been passed.

8 The requirements of paragraph 5 of Schedule 1, that not less than one-half of all the members of the pastoral committee of a diocese shall be elected and that the number of such members who are of the clergy and the number thereof who are of the laity shall, as nearly as may be, be the same, and that not more than one-third of such members shall be ex-officio members appointed under paragraph 3 of that Schedule shall not apply to a pastoral committee until the date of the election of members of that committee next held after the commencement of this Measure.

9 (1) Subject to sub-paragraph (2) the powers conferred by section 39 shall be exercisable in relation to instruments, schemes or orders made and confirmed before 1st April 1969 under section 22 of the [M53]New Parishes Measure 1943, the Reorganisation Areas Measure 1944 or the [M54]Pastoral Reorganisation Measure 1949 as if such instruments or orders were orders made under this Measure and as if such schemes were schemes made under this Measure.

(2) Sub-paragraph (1) shall not apply to a scheme or part of a scheme providing for the closure, demolition or appropriation to a use or uses of a church or part of a church but such scheme or part shall for the purposes of section 57 of this Measure be deemed to be a redundancy scheme made under this Measure and any deeds or regulations made under section 24 of the [M55]Union of Benefices Measure 1923 relating to such scheme or part shall be deemed to be provisions contained in that scheme or part; but section 61(1) of this Measure shall not apply unless an amending redundancy scheme so provides.

Marginal Citations

M53 1943 No. 1.
M54 1949 No. 3.
M55 1923 No. 2.

10 If any difficulty or question arises as to the effect of anything given or done under section 22 of the [M56]New Parishes Measure 1943, the [M57]Reorganisation Areas Measure 1944 or the [M58]Pastoral Reorganisation Measure 1949, it shall be determined by directions of the Commissioners given under their seal.

Marginal Citations

M56 1943 No. 1.
M57 1944 No. 1.
M58 1949 No. 3.

11 For the purposes of this Schedule,

(a) a pastoral scheme or pastoral order shall be deemed to be pending at the commencement of this Measure if it has at least reached the following stage of the procedure applicable to that scheme or order, that is to say, the submission to the Commissioners of proposals—

(i) under section 3(6), or section 13(1) or (5) of the [M59]Pastoral Measure 1968

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(ii) under the said section 3(6), as applied by section 12(5) of that Measure;

(b) a redundancy scheme shall be deemed to be pending at the commencement of this Measure if the Commissioners have served a copy of the draft scheme on the bodies referred to in section 50(3) of the Pastoral Measure 1968.

Marginal Citations
M59 1968 No. 1.

12 Any right of patronage created under any of the provisions repealed by the Pastoral Measure 1968 or created under that Measure shall continue to be incapable of sale and any transfer thereof for valuable consideration shall be void.

13 In this Schedule references to the Pastoral Measure 1968 are references to that Measure disregarding the amendments made by the [M60]Pastoral (Amendment) Measure 1982.

Marginal Citations
M60 1982 No. 1

14 Nothing in this Schedule shall be taken as prejudicing the application of Sections 16 and 17 of the [M61]Interpretation Act 1978.

Marginal Citations
M61 1978 c. 30.

SCHEDULE 9

Section 93.

REPEALS

Provision	Short title	Extent of repeal
1968 No. 1.	Pastoral Measure 1968.	The whole Measure.
1970 No. 2.	Sharing of Church Buildings Measure 1970.	Section 1.
1972 c. 70.	The Local Government Act 1972.	In Schedule 29, paragraph 39.
1976 No. 4.	Endowments and Glebe Measure 1976.	Section 38(4) and (5).
1978 No. 2.	Parochial Registers and Records Measure 1978.	Section 19(4).
1982 No. 1.	Pastoral (Amendment) Measure 1982.	The whole Measure.

Status: *Point in time view as at 01/02/2001.*
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1983 No. 2.	Church of England (Miscellaneous Provisions) Measure 1983.	Section 11.

Status:
Point in time view as at 01/02/2001.

Changes to legislation:
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