



Church of England (Miscellaneous Provisions) Measure 2000

2000 No. 1

A Measure passed by the General Synod of the Church of England to transfer certain functions of the Church Commissioners to diocesan bodies; to make provision for the performance of a rural dean's functions during a vacancy, absence or illness; to enable dioceses to re-name rural deans as area deans; to amend section 1 of the Consecration of Churchyards Act 1867; to amend section 12(10) of the City of London (Guild Churches) Act 1952; to amend the Schedule to the Church Funds Investment Measure 1958; to amend section 8 of the Ecclesiastical Jurisdiction Measure 1963; to amend section 21 of the Repair of Benefice Buildings Measure 1972; to amend section 4 of the Ecclesiastical Fees Measure 1986; to amend section 3 of the Patronage (Benefices) Measure 1986; to amend section 6 of the Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988; to repeal certain enactments which are no longer of practical utility; and for purposes connected therewith. [28th July 2000]

PART I

TRANSFER OF CERTAIN FUNCTIONS OF CHURCH COMMISSIONERS

1 Diocesan accounts

- (1) The duties of the Church Commissioners (hereinafter referred to as "the Commissioners")—
- (a) under section 1 of the Diocesan Stipends Funds Measure 1953 to keep a capital account and an income account for the diocesan stipends fund of a diocese, and
 - (b) under section 77 of the Pastoral Measure 1983 to hold a diocesan pastoral account,
- are hereby transferred to the diocesan board of finance of the diocese.

(2) The Commissioners shall, on the appointed day, pay to each diocesan board of finance

- (a) an amount equivalent to the balance outstanding on that day to the credit of the capital account,
- (b) an amount equivalent to the balance outstanding on that day to the credit of the income account, and
- (c) an amount equivalent to the balance outstanding on that day to the credit of the diocesan pastoral account,

for the diocese concerned and those amounts shall be credited to its capital account, its income account or its diocesan pastoral account as the case may be:

Provided that, if there is no balance outstanding on the appointed day to the credit of the income account of a diocese, any amount then outstanding to the debit of the account shall be treated as a debt due to the Commissioners from the diocesan board of finance concerned.

(3) In this section “diocesan board of finance”, “diocesan pastoral account” and “diocesan stipends fund” have the same meanings as in the Pastoral Measure 1983 and “the appointed day” means the day appointed under section 22(2) below for the coming into force of this section.

2 Amendment of Parsonages Measure 1938

The Parsonages Measure 1938 shall have effect subject to the amendments specified in Schedule 1 to this Measure.

3 Amendment of City of London (Guild Churches) Act 1952

In section 12(10) of the City of London (Guild Churches) Act 1952—

- (a) for the words “Incumbents (Disability) Measure 1945 and of the Incumbents (Discipline) Measure 1947” there shall be substituted the words “Ecclesiastical Jurisdiction Measure 1963 and of the Incumbents (Vacation of Benefices) Measure 1977”;
- (b) for the words “Church Commissioners” there shall be substituted the words “London Diocesan Fund”;
- (c) in the proviso for the words “Incumbents (Discipline) Measure 1947” there shall be substituted the words “Ecclesiastical Jurisdiction Measure 1963” and for the words “paragraph (iii) of section 16” there shall be substituted the words “section 71(4)”.

4 Amendment of Diocesan Stipends Funds Measure 1953

The Diocesan Stipends Funds Measure 1953 shall have effect subject to the amendments specified in Schedule 2 to this Measure.

5 Amendment of Church Property (Miscellaneous Provisions) Measure 1960

The Church Property (Miscellaneous Provisions) Measure 1960 shall have effect subject to the amendments specified in Schedule 3 to this Measure.

6 Amendments of Cathedrals Measure 1963

In section 39 of the Cathedrals Measure 1963 for the words “Church Commissioners” there shall be substituted the words “diocesan board of finance”.

7 Amendment of Repair of Benefice Buildings Measure 1972

The Repair of Benefice Buildings Measure 1972 shall have effect subject to the amendments specified in Schedule 4 to this Measure.

8 Amendment of Endowments and Glebe Measure 1976

The Endowments and Glebe Measure 1976 shall have effect subject to the amendments specified in Schedule 5 to this Measure.

9 Amendment of Incumbents (Vacation of Benefices) Measure 1977

In Schedule 2 to the Incumbents (Vacation of Benefices) Measure 1977—

- (a) in paragraph 2(4) for the words “Church Commissioners” there shall be substituted the words “Church of England Pensions Board”;
- (b) in paragraph 7 for the words from “agreed” to “and” there shall be substituted the words “determined by”;
- (c) in paragraph 8(1) in the definition of “national minimum stipend” the words “Church Commissioners as the” shall be omitted.

10 Amendment of Pastoral Measure 1983

The Pastoral Measure 1983 shall have effect subject to the amendments specified in Schedule 6 to this Measure.

11 Amendment of Charities Act 1993

In section 96(2)(b) of the Charities Act 1993 after the words “Diocesan Board of Finance” there shall be inserted the words “(or any subsidiary thereof)”.

PART II

OTHER PROVISIONS

12 Provisions relating to rural deans

- (1) Where a rural deanery is vacant or a rural dean is unable by reason of illness or absence to carry out any or all of his functions, the bishop of the diocese in which the rural deanery is may appoint by an instrument under his hand another person to perform any or all of the rural dean’s functions for a period specified in the instrument.
- (2) A power of appointment under this section may be exercised by the appointment of two or more persons and by the division among them, whether territorially or otherwise, of the function or functions to be performed.

- (3) A statement in a document issued in the performance of any such function that the person by whom the document is signed or executed has been duly appointed under this section to perform that function shall be conclusive evidence of that fact.
- (4) The bishop of a diocese may by order declare that the office of rural dean shall, in any deanery in that diocese, be called the office of area dean; and, accordingly, in any enactment (including this section), Canon or other instrument references to a rural dean shall be construed as including references to an area dean.

13 Amendment of Consecration of Churchyards Act 1867

In section 1 of the Consecration of Churchyards Act 1867—

- (a) for the words “lawfully appointed as his commissary” there shall be substituted the words “appointed by him for the purposes of this section”;
- (b) for the words “any two clergymen of the diocese” there shall be substituted the words “a clergyman beneficed or licensed to serve in the diocese or by the churchwardens of the church in question”.

14 Amendment of Church Funds Investment Measure 1958

- (1) In the Church Funds Investment Measure 1958 the Scheme contained in the Schedule shall be amended as follows.
- (2) In paragraph 1 after the definition of “Contributing Fund” there shall be inserted the following definition—
 - ““Deposit Fund Reserve” has the meaning ascribed thereto in paragraph 22A hereof;”.
- (3) In paragraph 20(2) at the end there shall be inserted the words “Provided that the Central Board shall not be liable to make good any loss incurred in the course of administering the Fund in a reasonable manner in the event that depositors cannot be repaid in full”.
- (4) In paragraph 21(1) the words from “(c)” to “trust funds;” shall be omitted.
- (5) After paragraph 22 there shall be inserted the following paragraph—
 - “22A (1) For any Deposit Fund the Central Board may keep a separate account (referred to herein as a Deposit Fund Reserve) containing such moneys as the Board may allocate thereto out of the income of the investment of the Fund, for the purpose of preventing or reducing potential losses in the Fund or of augmenting the rate of interest paid to depositors.
 - (2) Until the expiry of the period of five years following the coming into force of section 14(5) of the Church of England (Miscellaneous Provisions) Measure 2000 or of such further period or periods following that period of five years as the General Synod may by resolution direct, paragraph 21 of this Scheme shall apply in relation to Deposit Fund Reserves in like manner as it applies to Deposit Funds, with the insertion at the end of subparagraph (1) of the words “(g) Upon loan to the Archbishops' Council.”.

15 Amendment of Ecclesiastical Jurisdiction Measure 1963

In section 8 of the Ecclesiastical Jurisdiction Measure 1963 at the end of subsection (2) there shall be inserted the words “with the leave of Her Majesty in Council.”.

16 Amendment of Ecclesiastical Fees Measure 1986

(1) Section 4 of the Ecclesiastical Fees Measure 1986 shall be amended as follows.

(2) In subsection (1) for paragraph (d) there shall be substituted the following paragraphs

—

“(d) a member or officer of the Archbishops' Council nominated for the purposes of this Measure by that Council;

(dd) a Church Commissioner or an officer of the Church Commissioners nominated for the purposes of this Measure by them; and”.

(3) In subsection (3) for the words from “paragraphs (a) to (c)” to “paragraph (e)” there shall be substituted the words “paragraphs (a), (b), (c) and (e)”.

(4) After subsection (3) there shall be substituted the following subsection—

“(3A) The members of the Fees Advisory Commission nominated under paragraphs (d) and (dd) of subsection (1) above shall serve on the Commission during the pleasure of the Archbishops' Council or the Church Commissioners, respectively.”.

17 Amendment of Patronage (Benefices) Measure 1986

In section 3 of the Patronage (Benefices) Measure 1986—

(a) in subsection (8) at the end there shall be inserted the words “unless the benefice is one to which a suspension period (within the meaning of section 67 of the Pastoral Measure 1983) applies and a person holds office as priest in charge for the benefice”;

(b) in subsection (9) after the word “but” there shall be inserted the words “except in subsection (6)”.

18 Amendment of Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988

In section 6 of the Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988—

(a) in subsection (2) at the end there shall be inserted the words “for its approval”;

(b) for subsections (3) and (4) there shall be substituted the following subsections

—

“(3) Where the Business Committee of the General Synod determines that any such petition does not need to be debated by the Synod, then, unless notice is given by a member of the Synod in accordance with its Standing Orders that he wishes the petition to be debated, the petition shall for the purposes of subsection (2) above be deemed to have been approved by the Synod.

(4) Where the petition is approved by the General Synod the bishop of the diocese may forward it to Her Majesty in Council.”.

PART III

GENERAL

19 Transitional provisions

The transitional provisions set out in Schedule 7 to this Measure shall have effect for the purpose of the transfer of functions of the Church Commissioners under, or by virtue of any amendment made by, Part I of this Measure.

20 Repeals

The enactments mentioned in Schedule 8 to this Measure are hereby repealed to the extent specified in the third column of that Schedule (those mentioned in Part I of that Schedule being enactments which are no longer of practical utility).

21 Extent

- (1) This Measure shall extend to the provinces of Canterbury and York except that it shall only extend to the Isle of Man and the Channel Islands in accordance with the following provisions of this section.
- (2) Section 13 above and this section shall extend to the Isle of Man; and if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, section 9, 10, 12, 15, 17 and 19 of, and Schedules 6 to 8 to, this Measure shall extend to the Isle of Man subject to such exceptions, adaptations and modifications as may be specified in the Act of Tynwald or instrument.
- (3) This Measure may be applied to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either of them, in accordance with these Measures.

22 Citation, commencement and interpretation

- (1) This Measure may be cited as the Church of England (Miscellaneous Provisions) Measure 2000.
- (2) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint, and different days may be appointed for different provisions.
- (3) In this Measure “function” includes powers and duties.

SCHEDULES

SCHEDULE 1

Section 2.

AMENDMENT OF PARSONAGES MEASURE 1938

- 1 The Parsonages Measure 1938 shall be amended as follows.
- 2 For the words “Queen Anne’s Bounty” and “Diocesan Dilapidations Board”
wherever they appear there shall be substituted the words “the Church
Commissioners” and “Board”, respectively.
- 3 In section 1—
 - (a) in subsection (3)—
 - (i) paragraph (i) shall cease to have effect;
 - (ii) in paragraph (iii) for “Commissioners of Crown Lands” there shall
be substituted the words “Crown Estate Commissioners”;
 - (b) after subsection (3) there shall be inserted the following subsections—

“(3A) The consent of the Church Commissioners shall not be required
under subsection (3)(ii) above in the case of a sale or exchange if—

 - (a) the disposition is made to a person who is not a connected
person or a trustee for, or nominee of, a connected person;
and
 - (b) the requirements of subsection (3B) below have been
complied with in relation to it.

(3B) The incumbent or bishop, as the case may be, must, before entering
into an agreement for the sale or exchange—

 - (a) obtain and consider a written report on the proposed
disposition from a qualified surveyor instructed by and
acting exclusively for him;
 - (b) advertise the proposed disposition for such period and in
such manner as the surveyor has advised in his report
(unless he has there advised that it would not be in the
best interests of the benefice to advertise the proposed
disposition); and
 - (c) decide that he is satisfied, having considered the
surveyor’s report, that the terms on which the disposition
is proposed to be made are the best that can be reasonably
obtained for the benefice.”;
 - (c) for subsection (5) there shall be substituted the following subsection—

“(5) All moneys arising from any sale or exchange under the provisions
of this section shall be paid in the first instance to the Board,
and the receipt of the Board shall be a sufficient discharge to the
purchaser, but thereafter the moneys shall be transferred to the
Church Commissioners.”;

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(d) at the end there shall be inserted the following subsection—

“(6) In this section and in section 2 below—

“connected person” means the spouse or a child, parent, grandparent, brother or sister of the incumbent or bishop or of a member, officer, agent or employee of the parochial church council of any parish within the benefice in question or of the diocesan board of finance concerned;

“qualified surveyor” means a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers reasonably believed by the incumbent or the bishop, as the case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question.”.

4 In section 2—

(a) in subsection (1) in paragraph (i) the words from “but so that” to the end shall be omitted;

(b) after subsection (2) there shall be inserted the following subsections—

“(2A) The consent of the Church Commissioners shall not be required under subsection (2) above in the case of a transaction entered into in connection with the exercise of any such power if—

(a) no person who is a connected person or a trustee for, or nominee of, a connected person is concerned in the transaction; and

(b) the requirements of subsection (2B) below have been complied with in relation to it.

(2B) The incumbent or bishop, as the case may be, must, before entering into any such transaction,—

(a) obtain and consider a written report on the proposed transaction from a qualified surveyor instructed by and acting exclusively for him; and

(b) decide that he is satisfied, having considered the surveyor’s report, that the terms on which the transaction is proposed to be made are the best that can be reasonably obtained for the benefice.”;

(c) in subsection (4) for the words from “agreed to by the bishop” to “and the” there shall be substituted the words “agreed to by the bishop and the”.

5 In section 2A—

(a) in subsection (1) the words “the Commissioners, and” shall be omitted;

(b) in subsection (2) the words “, the Commissioners” shall be omitted.

6 In section 3—

(a) in subsection (1) for the words from “council of” to “require, of” there shall be substituted the words “councils of all parishes within the benefice, but if any objection is raised within the prescribed time by such patron or councils the power shall not be exercised unless the Commissioners have informed the patron or the councils, as the case may be, that they are satisfied that the objection ought not to prevent the exercise of the power, together with a statement of”;

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(b) subsection (3) shall cease to have effect.

7 In section 5—

- (a) in subsection (1), in paragraph (iii) for the words from “previous” to “and” there shall be substituted the words “previous consent of” and paragraph (v) shall cease to have effect;
- (b) in subsection (3) for the words “shall be allocated by the Commissioners” there shall be substituted the words “and the Commissioners are satisfied that they should not be so applied or disposed of, shall be allocated”;
- (c) at the end there shall be inserted the following subsection—

“(4) The Board shall provide the Commissioners with such information as they may require concerning transactions under this Measure affecting property.”

8 For section 7 there shall be substituted the following section—

“7 Notice of application of moneys

The Board shall give the prescribed notice to the registered patron (as defined in section 39(1) of the Patronage (Benefices) Measure 1986), if any, of the benefice affected, to the parochial church councils of all parishes within the benefice and to the Church Commissioners of any proposed application and disposition of moneys under section 5(1)(ii) or (3) of this Measure, and shall forward to the Church Commissioners for the purposes of consideration any representations made by such patron or council with regard to such application and disposition.”.

9 In section 9—

- (a) in subsection (2) for the words from the beginning to “any conveyance” there shall be substituted the words “The sealing by the Board of any conveyance”;
- (b) after subsection (2) there shall be inserted the following subsections—

“(2A) A statement in a document signed by the secretary or other duly authorised officer of the Commissioners that the Commissioners have consented to the terms of any transaction under this Measure affecting property which is specified in the document shall be conclusive evidence that they have consented to those terms.

(2B) A statement in a document giving effect to any transaction under this Measure that the consent of the Commissioners or the Board or both to the terms of the transaction is not required under section 1(3)(ii) above shall, if the document is sealed with the seal of the Board or is signed on behalf of the Board by a person duly authorised by the Board, be conclusive evidence of that fact.”.

10 In section 15 at the end there shall be inserted the following subsections—

“(5) Any rules made under this section shall be laid before the General Synod and shall not come into force until they have been approved by the General Synod, whether with or without amendment.

(6) Where the Business Committee determines that rules made under this section do not need to be debated by the General Synod then, unless—

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- (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the rules to be debated, or
 - (b) notice is so given by any such member that he wishes to move an amendment to the rules,
- the rules shall for the purposes of subsection (5) above deemed to have been approved by the General Synod without amendment.
- (7) The Statutory Instruments Act 1946 shall apply to any rules approved by the General Synod under this section as if they were a statutory instrument 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.”.
- 11 In section 20 at the end there shall be inserted the words “; and references to the Board shall be construed as references to the Parsonages Board or (if designated as such under section 1(1) of the Repair of Benefice Buildings Measure 1972) the Diocesan Board of Finance”.

SCHEDULE 2

Section 4.

AMENDMENT OF DIOCESAN STIPENDS FUNDS MEASURE 1953

- 1 The Diocesan Stipends Funds Measure 1953 shall be amended as follows.
- 2 For section 1 there shall be substituted the following section—
- “1 Capital and income accounts of diocesan stipends funds**
- The diocesan board of finance of each diocese shall keep two accounts for the diocesan stipends fund, namely, a capital account and income account.”.
- 3 In section 2—
- (a) for the words “Commissioners shall after the appointed day” there shall be substituted the words “diocesan board of finance of each diocese shall”;
 - (b) in sub-paragraph (a)—
 - (i) for the word “each” there shall be substituted the word “the”;
 - (ii) sub-paragraph (i) shall be omitted;
 - (iii) in sub-paragraph (ii) for the words from “subsection (1) of section 30” to “1949” there shall be substituted the words “a pastoral scheme made under the Pastoral Measure 1983 or any other scheme having effect as if it were such a scheme”;
 - (iv) in sub-paragraph (iii) for the words from “Commissioners” to “finance” there shall be substituted the words “diocesan board of finance after consultation with the bishop”;
 - (v) in sub-paragraph (iv) for the words from “Commissioners” to “decide” there shall be substituted the words “diocesan board of finance decides”;
 - (c) in paragraph (b)—
 - (i) for the word “each” there shall be substituted the word “the”;
 - (ii) sub-paragraphs (i) and (iv) shall be omitted;
 - (iii) in sub-paragraph (ii) for the words from “subsection (1) of section thirty” to “1949” there shall be substituted the words “a pastoral

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- scheme made under the Pastoral Measure 1983 or any other scheme having effect as if it were such a scheme”;
- (iv) in sub-paragraph (v) for the words from “Commissioners” to “finance” there shall be substituted the words “diocesan board of finance after consultation with the bishop”.
- 4 In section 4(1)—
- (a) for the words from “Commissioners” to “finance” there shall be substituted the words “diocesan board of finance with the concurrence of the bishop”;
- (b) after paragraph (a) there shall be inserted the following paragraph—
- “(aa) investment in any subsidiary of the board under a scheme made under section 19A of the Endowments and Glebe Measure 1976;”.
- 5 In section 5—
- (a) in subsection (3) for the words from “directions given” to “functions as” there shall be substituted the words “recommendations made by”;
- (b) in subsection (4) for the word “Commissioners” there shall be substituted the words “Archbishops' Council”.
- 6 In section 7 for the words from “Commissioners” to the end there shall be substituted the words “diocesan board of finance of each diocese shall furnish to the Commissioners and the Archbishops' Council a duly audited copy of the capital account and the income account of the diocesan stipends fund in such form as that Council may prescribe”.

SCHEDULE 3

Section 5.

AMENDMENT OF CHURCH PROPERTY (MISCELLANEOUS PROVISIONS) MEASURE 1960

- 1 The Church Property (Miscellaneous Provisions) Measure 1960 shall be amended as follows.
- 2 In section 7(3) for the words from “paid to” to “them” there shall be substituted the words “paid to the parsonages board or (if designated as such under section 1(1) of the Repair of Benefice Buildings Measure 1972) the diocesan board of finance (hereinafter in this Measure referred to as “the board”) of the diocese concerned and shall be applied by it” and for the words “between the Commissioners” there shall be substituted the words “between the board”.
- 3 In section 8—
- (a) in subsection (2) after the words “Measure, the Commissioners” there shall be inserted the words “or a board” and after the words “benefice, the Commissioners” there shall be inserted the words “, the board”;
- (b) in subsection (3) after the words “or by” there shall be inserted the words “a board,” and after the words “section, the Commissioners,” there shall be inserted the words “the board”.
- 4 In section 9—
- (a) in subsection (1) the words “the Commissioners” and “diocesan dilapidations” shall be omitted;
- (b) in subsection (3) for the word “Commissioners” there shall be substituted the word “board”.

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- 5 In section 10 for the words from “, the Commissioners” to the end there shall be substituted the words “and the board”.
- 6 In section 11—
- (a) in subsection (1) the words from “and (b)” to “benefice” and the words “the Commissioners” shall be omitted and for the words “diocesan dilapidations board” there shall be substituted the word “board”;
 - (b) in subsection (2) for the word “Commissioners” there shall be substituted the word “board”.
- 7 In section 17 for the word “Commissioners” there shall be substituted the words “Archbishops' Council”.
- 8 In section 25(2) for the words “diocesan dilapidations board” there shall be substituted the word “board”.
- 9 In section 27 for the word “Commissioners” there shall be substituted the word “board”.

SCHEDULE 4

Section 7.

AMENDMENT OF REPAIR OF BENEFICE BUILDINGS MEASURE 1972

- 1 The Repair of Benefice Buildings Measure 1972 shall be amended as follows.
- 2 In section 2(3) for the words “section 32 of the Town and Country Planning Act 1962” there shall be substituted the words “section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990”.
- 3 In section 12(1) the words from “and approved by” to the end shall be omitted.
- 4 In section 14(1) for the words from “have agreed” to “demolished” there shall be substituted the words “that the Commissioners are satisfied that any objection raised under section 3(1) of the Parsonages Measure 1938 ought not to prevent any such sale, exchange or demolition”.
- 5 In section 15(1)(b) the words “or section 31 of the Pastoral Measure 1968” shall be omitted.
- 6 In section 16(1) paragraph (e) shall be omitted.
- 7 In section 18 for subsections (1) and (2) there shall be substituted the following subsections—
- “(1) The moneys in the Parsonages Fund shall be treated as a reserve.
 - (2) Subject to subsection (3) below, only the income arising from the reserve shall be applicable for the general purposes of the Fund.”.
- 8 In section 19 for subsection (4) there shall be substituted the following subsection—
- “(4) Any moneys received by the Board under any insurance policy effected under this Measure, so far as they are not applied for the purposes mentioned in section 12(3) of this Measure or to meet any liability covered by the policy, and any net proceeds of the demolition under this Measure of any outbuildings of a parsonage house, shall be held by the Board as if they

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were moneys arising from a sale of the parsonage house, under the Acts and Measures relating to such sales, and may be applied accordingly.”.

9 In section 20(6) the words “paid to the Commissioners and” shall be omitted.

10 In section 21(1) the words “consulted the registered patron, and” shall be omitted and at the end there shall be inserted the following subsection—

“(4) Before making additions or alterations to the buildings of a parsonage house the incumbent shall consult the registered patron (as defined in section 39(1) of the Patronage (Benefices) Measure 1986), if any, of the benefice and, in the case of a parsonage house which is occupied by a person who is a member of the team in a team ministry established by a pastoral scheme under the Pastoral Measure 1983 and not by the incumbent, that person also.”.

11 In section 27(3) for the words “section 26 of the Interpretation Act 1889” there shall be substituted the words “section 7 of the Interpretation Act 1978”.

12 In section 30 for subsection (1) there shall be substituted the following subsection—

“(1) A copy of any scheme made by a diocesan synod under this Measure shall be sent to the Commissioners and filed in the diocesan registry.”.

SCHEDULE 5

Section 8.

AMENDMENT OF ENDOWMENTS AND GLEBE MEASURE 1976

1 The Endowments and Glebe Measure 1976 shall be amended as follows.

2 In section 11—

- (a) in subsection (2) the words “, on or after the appointed day” shall be omitted and for the words “Commissioners” there shall be substituted the words “Diocesan Board of Finance of the appropriate diocese”;
- (b) in subsection (3) after the word “Commissioners” there shall be inserted the words “and any Diocesan Board of Finance qualified to benefit from the trust in question”;
- (c) for subsection (5) there shall be substituted the following subsection—

“(5) The Diocesan Board of Finance shall allocate to the capital account of its diocesan stipends fund any property which is transferred to it under subsection (2) above.”.

3 In section 18—

- (a) in subsection (1) the words “, with the consent of the Commissioners,” shall be omitted;
- (b) in subsection (2) the words “of the Commissioners and” shall be omitted.

4 After section 19 there shall be inserted the following section—

“19A Section 19 schemes: subsidiaries

- (1) A scheme made under section 19 above may provide for the setting up of a wholly owned subsidiary or subsidiaries of the Diocesan Board of Finance.

- (2) Any such subsidiary shall, subject to the provisions of the scheme, have the same powers and duties as the Diocesan Board of Finance with respect to holding, managing and dealing with such glebe land as may be specified in the scheme.”.

5 In section 20—

- (a) for subsection (1) there shall be substituted the following subsection—
- “(1) Subject to the following provisions of this section, a Diocesan Board of Finance may with the consent of the Commissioners sell, exchange, lease, mortgage or otherwise deal with any diocesan glebe land of the diocese; and where the amenities of any land will be affected by the proposed transaction and the Board or the Commissioners think it necessary to do so in the interest of safeguarding those amenities they may, notwithstanding anything in section 19(1) above, include or require to be included such terms safeguarding those amenities as, having regard to all the circumstances, they consider reasonable and proper.”;
- (b) for subsection (2) there shall be substituted the following subsections—
- “(2) The consent of the Commissioners shall not be required for a disposition of land to a subsidiary of the Diocesan Board of Finance for the purposes of a scheme made under section 19A above.
- (2A) Subject to subsection (6A) below and without prejudice to subsection (2) above, the consent of the Commissioners shall not be required for a disposition of land if—
- (a) the disposition is made to a person who is not a connected person or a trustee for, or nominee of, a connected person; and
- (b) the requirements of subsection (2B) or (2C) below have been complied with in relation to it.
- (2B) Except where the proposed disposition is the granting of such a lease as is mentioned in subsection (2C) below, the Diocesan Board of Finance must, before entering into an agreement for the sale or (as the case may be) for a lease or other disposition, of the land—
- (a) obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by and acting exclusively for the Board;
- (b) advertise the proposed disposition for such period and in such manner as the surveyor has advised in his report (unless he has there advised that it would not be the best interests of the diocese to advertise the proposed disposition); and
- (c) decide that it is satisfied, having considered the surveyor’s report, that the terms on which the disposition is proposed to be made (including any terms for safeguarding the amenities of the land) are the best that can be reasonably obtained for the diocese.

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- (2C) Where the proposed disposition is the granting of a lease for a term ending not more than seven years after it is granted (other than one granted wholly or partly in consideration of a fine), the Board must, before entering into an agreement for the lease—
- (a) obtain and consider the advice on the proposed disposition of a person who is reasonably believed by the Board to have the requisite ability and practical experience to provide it with competent advice on the proposed disposition; and
 - (b) decide that it is satisfied, having considered that person's advice, that the terms on which the disposition is proposed to be made (including any terms for safeguarding the amenities of the land) are the best that can reasonably be obtained for the diocese.”;
- (c) in subsection (3) for the words from “authorisation given” to the end there shall be substituted the words “operation of such provisions of the scheme as may be specified in the notice”;
- (d) in subsection (5) for the words from the beginning to “the terms of” there shall be substituted the words “Where the Board proposes to enter into”;
- (e) after subsection (6) there shall be inserted the following subsection—
- “(6A) Where representations are made to the Board under subsection (5) above, the Board shall forward a copy of the representations to the Commissioners together with details of the proposed transaction and subsection (2A) above shall not apply to the transaction unless the Commissioners, having considered the representations, direct that it shall apply.”;
- (f) in subsection (7) for the words “approval of the terms of” there shall be substituted the words “consent to” and for the words from “forward” to “that subsection” there shall be substituted the words “, if no representations were made to the Board under subsection (5) above with respect to the transaction, forward”;
- (g) in subsection (8) for the word “approve” there shall be substituted the words “consent to”;
- (h) in subsection (9) for the word “approval” there shall be substituted the word “consent”;
- (i) in subsection (10) for the word “approved” there shall be substituted the words “consented to” and for the words “those terms have been so approved” there shall be substituted the words “such consent has been obtained”;
- (j) in subsection (11) for the words from “under this section” to “by the Board” there shall be substituted the words “or any subsidiary of the Board under this section that all the requirements of the Measure with respect to the transaction have been complied with shall, if the document is sealed with the seal of the Board or the subsidiary or is signed on behalf of the Board by a person duly authorised by the Board or the subsidiary”;
- (k) at the end there shall be inserted the following subsection—
- “(12) In this section the expressions “connected person” and “qualified surveyor” have the same meanings as in section 1 of the Parsonages Measure 1938.”.

6 For section 25 there shall be substituted the following section—

“25 Moneys arising from dealings, etc. with diocesan glebe land

- (1) Subject to subsection (2) below, the proceeds of, or the capital moneys arising from, any sale, exchange or other dealing with diocesan glebe land of a diocese, and any other payment in the nature of capital received in respect of such land, shall be paid to the Board and the amount so paid shall be allocated by the Board to the capital account of the diocesan stipends fund of that diocese.
- (2) Where any diocesan glebe land of a diocese is subject to a mortgage and any estate or interest in that land is sold or exchanged by the Diocesan Board of Finance, any principal money or interest owing under the mortgage at the date of the completion of the transaction may be discharged by the Board out of the proceeds arising from the sale or exchange.
- (3) The costs, charges and expenses of the related transaction shall be paid by the Board out of the capital account of the diocesan stipends fund.
- (4) All rents or other periodical payments in the nature of income received in respect of the diocesan glebe land of the diocese, less so much of any such payments as is required to enable the Board or any subsidiary of the Board to meet any recurring outgoings attributable to that land or the expenses incurred in managing that land, together with any other payment in the nature of income received in respect of that land, shall be paid to the Board and, subject to subsection (5) below, allocated to the income account of the diocesan stipends fund.
- (5) Any periodical or other payment for or in respect of mines and minerals vested in a Diocesan Board of Finance or any subsidiary of such a board as part of the diocesan glebe land of the diocese, other than surface rents, shall be treated as a payment in the nature of capital for the purposes of subsection (1) above.”.

7 In section 26—

- (a) subsection (2) shall cease to have effect;
- (b) in subsection (3) after the word “transmit” there shall be inserted the words “to the Archbishops' Council and” and for the words “the Commissioners may” there shall be substituted the words “that Council may”.

8 In section 27 at the end there shall be inserted the words “or matters concerning transactions affecting the diocesan glebe land”.

9 In section 32—

- (a) for subsections (1) and (2) there shall be substituted the following subsections—

“(1) Where the Diocesan Board of Finance of a diocese is of the opinion

- (a) that any parsonage land belonging to a benefice in the diocese or any part of such land and, in particular, a parsonage house or any excluded part of a parsonage house, is not necessary for the convenient occupation of

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the incumbent or, as the case may be, is not required as the residence house of the benefice, and

- (b) that such land should be transferred to the Board under this section,

it shall so notify the incumbent or any sequestrators concerned and, in the case of a benefice in respect of which a team ministry is established, every member of the team who may within one month following such notification, make written representations to the Commissioners with respect to the proposed transfer.

- (2) After considering any such representations the Commissioners shall notify the Board and the incumbent or sequestrators and every member of the team ministry of their decision with respect to the representation and the reasons therefor.

(2A) If no such representations are made within the said period of one month or the Commissioners decide that the proposed transfer should take place notwithstanding any representations, the bishop of the diocese concerned may by order under his seal provide for the transfer to the Board on such date as may be specified in the order of the land in question.”;

- (b) in subsection (7) for the word “Commissioners” there shall be substituted the word “bishop”;
- (c) in subsection (8) for the word “Commissioners” there shall be substituted the word “bishop”, for the word “their” there shall be substituted the word “his” and for the word “them” there shall be substituted the word “him”.

10 In section 35A—

- (a) in subsection (1) after the word “investments” there shall be inserted the words “or deposits” and for the words from “shall be paid” to the end there shall be substituted the words “shall be allocated to the capital account of its diocesan stipends fund”;
- (b) in subsection (2) after the word “investment” there shall be inserted the words “or deposit” and for the words from “shall be paid” to “by the Commissioners” there shall be substituted the words “shall be allocated”;
- (c) subsection (3) shall cease to have effect.

11 In section 38—

- (a) in subsection (2) for the word “Commissioners” there shall be substituted the words “Diocesan Board of Finance” and for the words from “and any such” to the end there shall be substituted the words “and the provisions of section 59 of the Pluralities Act 1838 shall not apply in relation to any such lease”;
- (b) in subsection (3) for the word “Commissioners” in both places where it appears there shall be substituted in each case the words “Diocesan Board of Finance”.

12 Section 42 shall cease to have effect.

13 In section 45(1)—

- (a) in the definition of “pastoral order” for the words “section 7 of the Pastoral Measure 1968” there shall be substituted the words “section 8 of the Pastoral Measure 1983”;

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- (b) in the definition of “pastoral scheme” for the words “Pastoral Measure 1968” there shall be substituted the words “Pastoral Measure 1983” and for the words “section 12” there shall be substituted the words “section 13”;
- (c) at the end there shall be inserted the following definition—
 - ““subsidiary” has the same meaning as in the in the Companies Act 1985”.

SCHEDULE 6

Section 10.

AMENDMENT OF PASTORAL MEASURE 1983

- 1 The Pastoral Measure 1983 shall be amended as follows.
- 2 In section 14(1) for the words from “, not being” to the end there shall be inserted the words “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.”.
- 3 In section 27—
 - (a) in subsection (1) for the word “Commissioners” there shall be substituted the words “bishop, after consultation with the diocesan advisory committee and the pastoral committee” and at the end there shall be inserted the following paragraph—
 - “(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.”;
 - (b) in subsection (2) and (4) for the word “Commissioners” there shall be substituted in each case the words “the bishop, after consultation with the diocesan advisory committee and the pastoral committee,”.
- 4 In section 52(1)(b) for the words from “allocated” to the end there shall be substituted the words “paid to such diocesan boards of finance, in such amounts, as the Commissioners may determine for allocation to the diocesan pastoral accounts”.
- 5 In section 77—
 - (a) in subsection (1) for the words “Commissioners shall” there shall be substituted the words “diocesan board of finance of each diocese shall” and for the words from “direct” to “payment” there shall be substituted the words “determine should be credited”;
 - (b) in subsection (4) after the word “Commissioners” there shall be inserted the words “and the Archbishops' Council”.
- 6 In section 78—
 - (a) in subsection (1) for the words “may be paid” there shall be substituted the words “shall be paid” and for the words from “such one” to “determine” there shall be substituted the words “the diocesan pastoral account”;

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(b) after subsection (1) there shall be inserted the following subsection—

“(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.”;

(c) in subsection (2) for the words from the beginning to “repay” there shall be substituted the words “The Commissioners or the diocesan board of finance, as the case may be shall be entitled to be repaid”;

(d) in subsection (3) for the words from the beginning to “request the diocesan board of finance” there shall be substituted the words “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”;

(e) subsections (4) and (5) shall cease to have effect.

7 In section 78A after subsection (1) there shall be inserted the following subsection

—
“(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.”.

8 In Schedule 3—

(a) in paragraph 8(2) for the words “Commissioners may” there shall be substituted the words “diocesan board of finance shall, if the Commissioners so direct,” and for the words “or may” there shall be substituted the words “and the Commissioners may”;

(b) in paragraph 9(2) at the end there shall be inserted the words “, 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”;

(c) in paragraph 16(3) for the words from “the capital” to “other” there shall be substituted the word “any” and at the end there shall be inserted the words “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.”.

9 In Schedule 4 in paragraph 18 for the words from “agreed” to the end there shall be substituted the words “determined by the board after consultation with the Commissioners.”.

10 In Schedule 7 in paragraphs 2(2) and (3) and paragraph 3 for the word “Commissioners” there shall be substituted in each case the words “diocesan board of finance”.

SCHEDULE 7

Section 19.

TRANSITIONAL PROVISIONS

- 1 Any statutory provision and any other instrument or contract in force immediately before the appointed day shall have effect for the purpose, or in consequence of the transfer of any function of the Church Commissioners by virtue of Part I of this Measure as if any reference therein to the Church Commissioners were a reference to the transferee body.
- 2 The provisions of Part I of this Measure shall not affect the validity of anything done by or in relation to the Church Commissioners before the appointed day; and anything (including legal proceedings) which on that day is in process of being done by or in relation to the Church Commissioners in connection with a function transferred by virtue of Part I of this Measure may be continued by or in relation to the transferee body.
- 3 Anything done by the Church Commissioners for the purpose of or in connection with a function transferred by virtue of Part I of this Measure which is in force immediately before the appointed day shall have effect so far as required for continuing its effect, on or after that day, as if done by the transferee body.

SCHEDULE 8

Section 20.

REPEALS

PART I

ENACTMENTS NO LONGER OF PRACTICAL UTILITY

Chapter or number	Short Title	Extent of repeal
3 & 4 Vict. c. 113.	Ecclesiastical Commissioners Act 1840.	In section 67, the words “, by the authority hereinafter provided,” and “, by the like authority,”.
5 & 6 Vict. c. 108.	Ecclesiastical Leasing Act 1842.	Section 29.
25 Geo. 5 and 1 Edw. 8 c. 43.	Tithe Act 1936	Section 38. Schedule 8.
1940 No. 3.	Ecclesiastical Dilapidations (Chancel Repairs) Measure 1940.	The whole Measure.
6 & 7 Eliz.2. No. 2.	Church Schools (Assistance by Church Commissioners) Measure 1958.	The whole Measure.

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Chapter or number	Short Title	Extent of repeal
8 & Eliz. 2 No. 1.	Church Property (Miscellaneous Provisions) Measure 1960.	Section 12. Section 16. Section 21.
1953 No. 2.	Diocesan Stipends Funds Measure 1953.	In section 2 the words “Subject to the provisions of section three of this Measure”. Section 3.
1972 No. 2.	Repair of Benefice Buildings Measure 1972.	In section 18, subsection (4).
1976 No. 4.	Endowments and Glebe Measure 1976.	Section 17. In section 20, subsection (2). Section 21. Section 28. In section 35A, subsection (3). Section 37.
1978 No. 3.	Church of England (Miscellaneous Provisions) Measure 1978.	Section 5.
1983 No. 1.	Pastoral Measure 1983.	In section 77, subsection (2). In Schedule 3, paragraph 10.
1986 No. 2.	Ecclesiastical Fees Measure 1986.	In section 4, subsection (2).

PART II

OTHER ENACTMENTS

Chapter	Short title	Extent of repeal
1 & 2 Geo. 6 No. 3.	Parsonages Measure 1938.	In section 1, in subsection (3) paragraph (i). In section 3, subsection (3). In section 5, paragraph (v) of subsection (1).
1976 No. 4.	Endowments and Glebe Measure 1976.	In section 26, subsection (2).

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Chapter	Short title	Extent of repeal
		Section 42. Schedule 3.
1983 No. 1.	Pastoral Measure 1983.	In section 78, subsections (4) and (5).
1986 No. 3.	Patronage (Benefices) Measure 1986.	In section 34, subsection (6).