



# Mission and Pastoral Measure 2011

2011 No. 3

A Measure passed by the General Synod of the Church of England to consolidate with corrections and minor improvements the Pastoral Measure 1983 and Parts 3, 4, 5 and 6 and section 61 of the Dioceses, Pastoral and Mission Measure 2007, and related enactments which are designed to make better provision for the cure of souls.  
[24th May 2011]

## PART 1

### GENERAL DUTY

#### **1 General duty**

It shall be the duty of any person or body carrying out functions under this Measure to have due regard to the furtherance of the mission of the Church of England.

## PART 2

### MISSION AND PASTORAL COMMITTEES

#### **2 Appointment of mission and pastoral committees**

- (1) The diocesan synod of every diocese shall establish a committee which shall have the functions conferred on it under this Measure.
- (2) The committee established under subsection (1) may be called by such name as the diocesan synod may decide but, in this Measure and in any other enactment, instrument or document, shall be known as the mission and pastoral committee.
- (3) The mission and pastoral committee shall not be the same body as the pastoral committee established under section 1 of the 1983 Measure unless it is reconstituted in accordance with subsection (4) but, otherwise, subject to that subsection, may be

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*Status: This is the original version (as it was originally enacted).*

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an existing body or a new body established to carry out the functions referred to in subsection (1) and may have other functions in addition to those functions.

- (4) The diocesan synod shall provide the mission and pastoral committee with a written constitution or, if the committee is reconstituted as mentioned in subsection (3), an amended or new written constitution, which shall comply with the provisions of Schedule 1.
- (5) The mission and pastoral committee shall present annually to the diocesan synod a report on its activities during the preceding year and shall also present annually to the Commissioners a report on the exercise of its functions under section 3(3)(e).

### **3 Functions of mission and pastoral committees**

- (1) In carrying out any of its functions the mission and pastoral committee shall, without prejudice to section 1, have regard to worship, mission and community as central to the life and work of the Church of England.
- (2) In carrying out any of its functions the mission and pastoral committee shall also have regard to—
  - (a) the financial implications for the diocese and the Church of England as a whole;
  - (b) subject to subsection (5), the need to allocate appropriate spheres of work and to ensure that appropriate conditions of service are enjoyed by those employed or holding office in the diocese and, where relevant, that reasonable remuneration is provided for all those engaged in the cure of souls;
  - (c) the traditions, needs and characteristics of particular parishes; and
  - (d) any other aspects of the policies of the diocesan synod to which the synod has requested the committee to have regard in discharging its responsibilities.
- (3) It shall be the duty of the mission and pastoral committee—
  - (a) to make or assist in making better provision for the cure of souls in the diocese as a whole and, to the extent that the committee thinks appropriate, in particular parts of the diocese or in particular parishes;
  - (b) from time to time, as the bishop may direct, or as the committee thinks fit, to review arrangements for pastoral supervision and care in the diocese as a whole and, to the extent that the committee thinks appropriate, in particular parts of the diocese or in particular parishes (including sharing agreements in respect of a church or parsonage house and any proposals for sharing agreements);
  - (c) from time to time, as the bishop may direct, or as the committee thinks fit, to prepare strategies or proposals for carrying out the committee's functions under paragraphs (a) and (b) for submission to the bishop and the diocesan synod for their approval;
  - (d) to maintain an overview of matters relating to church buildings in the diocese and their use, other than matters which are within the jurisdiction of the consistory court or within the functions of the Diocesan Advisory Committee;
  - (e) in the case of listed buildings or buildings in a conservation area, to make, in accordance with section 55, every endeavour to find a suitable alternative use or suitable alternative uses for churches which are proposed to be closed and buildings which have been closed for regular public worship in the diocese under a pastoral church buildings scheme and, in the case of any other such

- building, to develop proposals for the suitable alternative use or uses of the building or for the demolition of the building and the disposal of its site;
- (f) where it considers it desirable, to make recommendations to the bishop in accordance with section 6 or 21 for any of the matters for which provision may be made under this Measure (other than section 50) by a pastoral scheme or order; and
  - (g) to carry out any other functions conferred upon a mission and pastoral committee of a diocese by any enactment.
- (4) The mission and pastoral committee shall, in carrying out any of its functions, to the extent that it thinks appropriate, consult any other persons or bodies, whether within the Church of England or not, which exercise functions or carry out activities relevant to the functions of the committee.
- (5) Nothing in this section shall enable the mission and pastoral committee—
- (a) to exercise functions conferred on any other person or body by or under any enactment, or
  - (b) to fix or alter the terms of service of any person employed or holding office in the diocese.

#### **4 Conventional districts**

It shall be the duty of the mission and pastoral committee of a diocese from time to time as may be directed by the bishop, and in any event at least once every five years, to review the arrangements for pastoral supervision in each conventional district in the diocese and, in cases where they consider it desirable, to make recommendations to the bishop in accordance with section 6 or 21 for any of the matters for which provision may be made under this Measure (other than section 50) by a pastoral scheme or pastoral order.

### **PART 3**

#### **PROCEDURE FOR MAKING PASTORAL SCHEMES AND PASTORAL ORDERS OTHER THAN PASTORAL CHURCH BUILDINGS SCHEMES**

#### **5 Introduction**

This Part contains provisions relating to the procedure for making pastoral schemes other than pastoral church buildings schemes and pastoral orders.

##### *Procedure for schemes and orders affecting a single diocese*

#### **6 Formulation and submission to bishop of draft proposals**

- (1) Before deciding to make any recommendations to the bishop, the mission and pastoral committee shall so far as may be practicable ascertain the views of the interested parties or invite them to express their views.
- (2) Subject to subsection (3) 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 implementation 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; and
- (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.

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 of the benefice and, in the case of a parish of a parish church cathedral, the reference in paragraph (c) to a parochial church council shall be construed as a reference to the Chapter of the cathedral.

- (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 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.

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 34(1).

- (4) Where any recommendations, proposals, draft scheme or order relate or relates to any person holding office under Common Tenure whose office would or might be abolished if they or it took effect and any such person is entitled to receive a stipend or other emoluments of office including any provision of accommodation, that person shall be deemed to be an interested party for the purposes of this Part.
- (5) In the case of interested parties, being incumbents or vicars in a team ministry or a person referred to in subsection (4), the mission and pastoral committee shall, before reaching its decision, afford to each such person, if he or she so desires, an opportunity of meeting the committee or a 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 holding in plurality of any 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 of the committee), if he or she so desires.
- (6) In the case of interested parties, being parochial church councils, the committee shall, before reaching its decision, afford to each council or their representative, if the

council so requests, an opportunity of meeting the committee or, if the committee so decides, a sub-committee thereof or, with the consent of the council, a representative of the committee.

- (7) When the committee has decided to make recommendations, it 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 to the draft proposals as appear to him desirable.
- (8) The committee shall annexe to the draft proposals formulated by it a statement of the views of the interested parties.
- (9) 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.

## **7 Approval by bishop of draft proposals and preparation of draft scheme**

- (1) If the bishop approves, either with or without amendments, draft proposals submitted to him under section 6(7) he shall return the draft proposals to the mission and pastoral committee, with any amendments, for the preparation of a draft scheme or order.
- (2) Where the draft proposals approved by the bishop under subsection (1) contain recommendations for any of the matters contained in sections 31 and 32 and 34 to 36 the mission and pastoral committee shall send a copy of the proposals to the registered patrons of any of the benefices concerned and inform them that if the benefice is or becomes vacant section 87(1) will apply in relation to the benefice.
- (3) On receipt of the draft proposals the mission and pastoral committee shall prepare a draft scheme or order giving effect to the draft proposals, with any amendments, and shall submit the draft scheme or order to the Commissioners, together with the statement referred to in section 6(8).

## **8 Consideration of draft scheme or order by Commissioners**

- (1) On receipt of a draft scheme or order submitted to them under section 7 the Commissioners shall consider whether the draft scheme or order is in the correct form and is within the powers conferred on the bishop and the mission and pastoral committee and whether the procedures set out in sections 6 and 7 have been properly applied.
- (2) Where the Commissioners consider that, in accordance with subsection (1), any amendments should be made to the draft scheme or order, they may make such amendments as they think appropriate.
- (3) If the Commissioners make any such amendments they shall, unless they consider that the amendments are such as are described in section 19(2), refer the draft scheme or order, with their amendments, together with an explanation of the reasons for the amendments, to the mission and pastoral committee for further consideration.
- (4) The mission and pastoral committee shall, after consulting the bishop, consider the draft scheme or order, as amended by the Commissioners, and may, with the agreement of the bishop, make any amendments which it thinks fit, after taking account of the Commissioners' amendments.

- (5) The mission and pastoral committee shall, after considering the draft scheme or order in accordance with subsection (4), re-submit it to the Commissioners, with any amendments, together with an explanation of the action which it has taken on the Commissioners' amendments and subsection (2) and, if appropriate, subsections (3) and (4) and this subsection shall apply to any such draft scheme or order.
- (6) If the Commissioners consider that it is not possible to amend the draft scheme or order in a way which would enable it to proceed in the correct form or that the procedures set out in sections 6 and 7 have not been properly applied they shall return it to the mission and pastoral committee for further consideration.
- (7) If the draft scheme or order is returned to the mission and pastoral committee under subsection (6), the mission and pastoral committee shall take no further steps in relation to the draft scheme or order but shall, after consulting the bishop, consider whether to make new recommendations under section 6 or prepare a new draft scheme or order under section 7 or take any further steps specified by the Commissioners.
- (8) If the Commissioners do not refer the draft scheme or order to the mission and pastoral committee for further consideration as provided above, they shall return the draft scheme or order to the mission and pastoral committee to proceed with the draft scheme or order under section 9.

## **9 Notice and publication of draft schemes or orders**

- (1) The mission and pastoral committee shall serve a copy of any draft scheme or order prepared under section 7 on each of the interested parties and the Commissioners, 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) If a draft scheme is a scheme to which section 44 applies the mission and pastoral committee shall—
  - (a) also serve a copy thereof on the Commonwealth War Graves Commission; and
  - (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 not less than twenty-eight days after the first publication of the notice in such a newspaper.
- (3) The mission and pastoral committee shall, in the case of every draft scheme or order, send copies of such a notice as is mentioned in subsection (2), but specifying a date not less than twenty-eight days after the sending of the notices to the secretary of the parochial church council of every parish affected by the draft scheme or order, and require him or her 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 (including any building referred to in section 80(13) or (14)).
- (4) 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 or she has made written representations or not, to make oral representations with respect to the draft scheme or order.

- (5) 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.

## **10 Amendment of draft schemes or orders**

- (1) The Commissioners—
- (a) at the request of the bishop made after consultation with the mission and pastoral committee, or
  - (b) as a result of any representations,
- may, at any time after a copy of the draft scheme or order has been served on them under section 9(1), amend any draft scheme or order prepared by the committee 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, other than any amendments which, in the opinion of the Commissioners, are such as are described in section 19(2), are made, the amended draft scheme or order shall be treated in the same manner as an original draft scheme or order, and section 9 shall apply accordingly.

## **11 Making of schemes or orders**

- (1) Where no representations with respect to any such draft scheme have been duly made and the Commissioners are of the opinion that any such draft scheme should be made, and do not propose to amend or further amend it under section 10, 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.
- (2) Where representations with respect to any such draft scheme have been duly made and the Commissioners, having considered those representations, are of the opinion that the draft scheme should be made, and do not propose to amend or further amend it under section 10, they shall so far as practicable—
- (a) serve on the persons who duly made written representations with respect to the draft scheme notice of the Commissioners' decision with respect to the representations together with a statement in writing of the reasons therefor; and
  - (b) serve on any other persons, being interested parties, a copy of the notice.
- (3) A notice under subsection (2) shall inform persons who have duly made written representations with respect to the draft scheme 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.
- (4) When serving notice under subsection (2) the Commissioners shall send a copy thereof to the Registrar of the Privy Council together with a copy of the draft scheme and a copy of the statement in writing referred to in that subsection.
- (5) Where no representations with respect to any such draft order have been made and the Commissioners are of the opinion that the draft order should be made and do not propose to amend or further amend it under section 10, the Commissioners shall issue a certificate to that effect and submit the draft order and the certificate to the bishop.

- (6) 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 10,
- they shall issue a certificate to that effect and submit the draft order and the certificate to the bishop.
- (7) Where a draft order is submitted to the bishop under this section, he may by applying his seal thereto make the order.

## **12 Appeals to the Privy Council**

- (1) 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.
- (2) Schedule 2 shall apply to applications for leave to appeal, and to appeals to Her Majesty in Council, under this section.
- (3) If—
  - (a) no notice of intention to apply for leave to appeal is given on or before the date specified in the notice served under section 11(2), 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, or
  - (e) written representations with respect to the draft scheme have been duly made but it has not been practicable to serve any notice under section 11(2)(a),

the Commissioners shall seal a copy of the draft scheme and so make the scheme.
- (4) If leave to appeal is granted, the Judicial Committee shall hear the appeal, and the Judicial Committee shall make a report thereon and may propose to Her Majesty in Council that the appeal be allowed or dismissed or that the draft scheme should be returned to the Commissioners for reconsideration, and Her Majesty in Council may accordingly—
  - (a) allow the appeal, in which case the Commissioners shall not make the scheme, but without prejudice to the preparation and publication of a further draft scheme, or
  - (b) dismiss the appeal, in which case the Commissioners shall seal a copy of the draft scheme and so make the scheme, or
  - (c) return the draft scheme to the Commissioners for reconsideration.
- (5) Where a draft scheme is returned to the Commissioners for reconsideration, they may —
  - (a) withdraw the draft scheme, or
  - (b) inform the Registrar of the Privy Council that they wish to make the scheme without any amendment of the draft scheme, or



- (c) amend the draft scheme with the agreement of the bishop given after consultation with the mission and pastoral committee.
- (6) Where the Commissioners inform the Registrar of the Privy Council that they wish to make the scheme without any amendment of the draft scheme, the Judicial Committee may, without any further hearing, 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 had been made under subsection (4)(a) or (b).
- (7) Where the Commissioners amend the draft scheme, it shall be treated as a draft scheme amended under section 10 and the provisions of this Part shall apply accordingly.

### **13 Transmission of copies of scheme or order**

- (1) The mission and pastoral committee shall send a copy of every scheme made by the Commissioners under this Part and of every order made by the bishop under section 11(7) to the interested parties.
- (2) The mission and pastoral committee shall also send a copy of every such scheme or order to the registrar of the diocese concerned, who shall file it in the diocesan registry.

### **14 Validity and operation of schemes and orders**

- (1) The validity of a scheme made by the Commissioners 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 made by the Commissioners or, as the case may be, the order is made by the bishop under section 11(7).

*Modified procedure for schemes and orders affecting more than one diocese*

### **15 Limited extension of diocesan proposals and schemes to other dioceses**

- (1) The mission and 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 49 and such recommendations and a scheme or order to implement them may be proceeded with and made 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 mission and 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 mission and pastoral committee of his diocese;
  - (b) the bishop of the first-mentioned diocese shall not take any action in relation to such recommendations under section 7(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 specified in subsection (1) shall be complied with in relation to each of the other dioceses.

## **16 Joint boundary committees**

- (1) If it appears to the bishops of two or more dioceses 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 50, 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 subsection (2).
- (2) The committee shall be known as the joint boundary 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 mission and pastoral committee of the diocese concerned from among its members.
- (3) Without prejudice to the provisions of section 19(3), the functions of the joint boundary committee, and the powers exercisable in pursuance of their proposals under section 50, may be limited by the instrument referred to in subsection (1) 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 a specified area or specified areas, 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) The instrument which provides for the establishment of a joint boundary committee may also make such provision as the bishops of the dioceses concerned think fit for the procedure of the committee and any such provision as is referred to in subsection (5) and, when deciding whether to make any such provision, and, if so, what provision, the bishops shall have regard to the provisions of Schedule 1.
- (5) The provision referred to in subsection (4) is provision for paying the expenses of the joint boundary committee out of the diocesan pastoral accounts of the dioceses concerned.
- (6) Any recommendations made by the joint boundary committee shall be made to the bishops of the dioceses concerned, and section 6 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 mission and pastoral committee of a diocese, and the like proceedings may be taken on such proposals under sections 6 to 13 as may be taken on proposals formulated and submitted by a mission and pastoral committee, subject to the following modifications
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- (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; and

- (b) no action may be taken to prepare or implement such proposals by way of a draft order or orders.
- (7) If it appears to the bishops of the dioceses concerned that the purposes for which a joint boundary 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*

## **17 Power of bishop to formulate and submit proposals on certain matters**

- (1) If the bishop is of the opinion after consultation with the mission and pastoral committee that proposals which could be implemented under this Part by a pastoral order should be so implemented and the interested parties have consented to the proposals, then—
- (a) the mission and 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 11(7); and
  - (c) the mission and pastoral committee shall send to the Commissioners and the interested parties a copy of any order made under this subsection.
- (2) Any interested party which does not object to the proposals shall be deemed to have consented to the proposals if the interested party has been provided with a copy of the proposals and notified in writing by the mission and pastoral committee—
- (a) that the mission and pastoral committee should be informed in writing whether or not the interested party objects to the proposals within the period, not less than twenty-eight days after the service of the notice, specified in the notice,
  - (b) that, if the interested party does not inform the mission and pastoral committee as required by paragraph (a), that party will be deemed to have consented to the proposals, and
  - (c) that, if every interested party consents or is deemed to consent to the proposals, the mission and pastoral committee may proceed with the preparation of a draft order to give effect to the proposals, and the bishop may make the order, without further consultation.
- (3) 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 mission and pastoral committee of his diocese.

## **18 Withdrawal of scheme or order at request of bishop**

If the bishop of the diocese concerned or, in a case to which section 15, 16 or 17(3) applies, the bishops of the dioceses concerned, consider that any proposals or draft scheme or order should not be proceeded with, he or they may, after consulting the mission and pastoral committee or committees or (in a case to which section 16 applies) the joint boundary committee for the dioceses concerned, direct the committee or committees or, if a draft scheme or order is being considered by the Commissioners

under section 8 or the Commissioners have been notified of a draft scheme or order under section 9(1), the Commissioners, not to proceed with the proposals or draft scheme or order, as the case may be, but without prejudice to the making of fresh proposals.

## **19 Supplementary powers of Commissioners, mission and pastoral committees and joint boundary committees**

- (1) The mission and pastoral committee may—
- (a) at any time before it gives notice to the Commissioners of a draft scheme or order under section 9(1), except at any time after the draft scheme or order has been submitted to the Commissioners under section 7(3) and before the Commissioners have discharged their functions under section 8, or
  - (b) where the mission and pastoral committee proceeds with the preparation of a draft order under section 17, at any time,
- make such amendments to the proposals or the draft scheme or order as may appear to the committee to be necessary for the purpose of correcting any drafting mistake or omission.
- (2) The Commissioners may—
- (a) at any time after a draft scheme or order has been submitted to them under section 7(3) and before the Commissioners have discharged their functions under section 8, or
  - (b) at any time after notice is given to the Commissioners of a draft scheme or order under section 9,
- make such amendments to the draft scheme or order as may appear to the Commissioners to be necessary for the purpose of correcting any drafting mistake or omission.
- (3) Nothing in this Part shall be construed as limiting in any way the powers of a mission and pastoral committee or a joint boundary 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 4**

### PROCEDURE FOR MAKING PASTORAL CHURCH BUILDINGS SCHEMES

#### *Procedure for schemes*

## **20 Introduction**

This Part contains provisions relating to the procedure for making pastoral church buildings schemes, that is to say schemes containing a declaration of closure for regular public worship.

## **21 Formulation and submission to bishop of draft proposals**

- (1) Before deciding to make any recommendations to the bishop, the mission and pastoral committee shall so far as may be practicable ascertain the views of the interested parties or invite them to express their views.
- (2) In this Part “interested parties”, in relation to any recommendations, proposals or draft scheme, means—
  - (a) incumbents of any benefices which would be affected by the implementation 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;
  - (f) the local planning authority or authorities concerned; and
  - (g) the parish council of the parish in which the building to which a declaration of closure for regular public worship relates is situated or, if there is no parish council for that parish, the chairman of the parish meeting.

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 of the benefice.

- (3) Where any recommendations, proposals or draft scheme relate or relates to any person holding office under Common Tenure whose office would or might be abolished if they or it took effect and any such person is entitled to receive a stipend or other emoluments of office including any provision of accommodation, that person shall be deemed to be an interested party for the purposes of this Part.
- (4) In the case of interested parties, being incumbents or vicars in a team ministry or a person referred to in subsection (3), the mission and pastoral committee shall, before reaching its decision, afford to each such person, if he or she 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 of the committee), if he or she so desires.
- (5) In the case of interested parties, being parochial church councils, the committee shall, before reaching its decision, afford to each council or their representative, if the council so requests, an opportunity of meeting the committee or, if the committee so decides, a sub-committee of the committee or, with the consent of the council, a representative of the committee.
- (6) Before deciding to make a recommendation that a declaration of closure for regular public worship be made in respect of any church the committee shall—
  - (a) ascertain the views of any local planning authority or authorities concerned;

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- (b) notify the Church Buildings Council 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 is required to prepare under subsection (7).
- (7) As soon as practicable after receiving a notice under subsection (6) the 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;
  - (d) any information or advice which the Council thinks appropriate to give concerning possible architectural or structural changes in each church mentioned in the notice in the event of its closure for regular public worship or, in the event that the church is not so closed, concerning any such changes which would facilitate its use for purposes which are consistent with use for regular public worship;
- and shall send a copy of that report to the Commissioners, the diocesan board of finance and the committee.
- (8) When the committee has decided to make recommendations, it 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 to the draft proposals as appear to him desirable.
- (9) The committee shall annex to the draft proposals formulated by it a statement of the views of the interested parties and a copy of the report prepared by the Council under subsection (7).
- (10) 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.

## **22 Approval by bishop of draft proposals**

- (1) If the bishop approves either with or without amendments draft proposals submitted to him under section 21(8) he shall submit the proposals as approved to the Commissioners and inform the mission and pastoral committee that he has done so.
- (2) The mission and pastoral committee shall send a copy of the proposals as approved by the bishop to every interested party with a notice informing him or her that if the Commissioners prepare a draft scheme to give effect to the proposals he or she will be given an opportunity of making representations with respect thereto.

## **23 Amendment of proposals and preparation of draft scheme**

- (1) The Commissioners shall consider any proposals submitted to them under section 22(1) and the bishop, in consultation with the mission and pastoral committee, shall consider any comments made by the Commissioners with respect to any of the proposals.

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- (2) If the proposals provide, in the circumstances mentioned in section 58 or 59—
  - (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 to the church, or
  - (c) for the care and maintenance of the church by the Churches Conservation Trust,the Commissioners shall consult the Church Buildings Council through its Statutory Advisory Committee.
- (3) After the provisions of subsections (1) and (2) have been complied with the Commissioners may make, with the agreement of the bishop given after consultation with the mission and pastoral committee, such amendments to the proposals as appear to them desirable.
- (4) The Commissioners shall prepare a draft scheme to give effect to the proposals, with any amendments made under subsection (3):  
Provided that—
  - (i) the Commissioners may, with the agreement of the bishop, given after consultation with the mission and 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, as a result of the Commissioners' decision under proviso (i), the proposals no longer contain a declaration of closure for regular public worship, the Commissioners shall refer the proposals to the mission and pastoral committee and the committee shall proceed as if the proposals related to a draft pastoral scheme which does not contain such a declaration or a draft order, as the case may be.

## **24 Notice and publication of draft schemes**

- (1) The Commissioners shall serve a copy of any draft scheme prepared under section 23 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) The Commissioners shall—
  - (a) also serve a copy thereof on the Church Buildings Council, English Heritage and the Joint Committee of the National Amenity Societies and on the Commonwealth War Graves Commission and, if the draft scheme provides for the care and maintenance of the building proposed to be closed for regular public worship by the Churches Conservation Trust, that Trust; and
  - (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 not less than twenty-eight days after the first publication of the notice in such a newspaper.
- (3) The Commissioners shall, in the case of every draft scheme, send copies of such a notice as is mentioned in subsection (2), 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 or her 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 (including any building referred to in section 80(13) or (14)).

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

## **25 Amendment of draft schemes**

- (1) The Commissioners—
  - (a) at the request of the bishop made after consultation with the mission and pastoral committee, or
  - (b) as a result of any representations,
 may amend any draft scheme 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, other than any amendments which, in the opinion of the Commissioners, are such as are described in section 30(1), are made, the amended draft scheme shall be treated in the same manner as an original draft scheme, and section 24 shall apply accordingly.

## **26 Making of schemes**

- (1) Where no representations with respect to any such draft scheme have been duly made and the Commissioners are of the opinion that any such draft scheme should be made, and do not propose to amend or further amend it under section 25, 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.
- (2) Where representations with respect to any such draft scheme have been duly made and the Commissioners, having considered those representations, are of opinion that the draft scheme should be made, and do not propose to amend or further amend it under section 25, they shall so far as practicable—
  - (a) serve on the persons who duly made written representations with respect to the draft scheme notice of the Commissioners' decision with respect to the representations together with a statement in writing of the reasons therefor; and
  - (b) serve on any other persons, being interested parties, a copy of the notice.
- (3) A notice under subsection (2) shall inform persons who have duly made written representations with respect to the draft scheme 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.

- (4) When serving a notice under subsection (2) the Commissioners shall send a copy to the Registrar of the Privy Council together with a copy of the draft scheme and a copy of the statement in writing referred to in that subsection.

## **27 Transmission of copies of scheme**

- (1) The Commissioners shall send a copy of every scheme made by them under this Part to the interested parties and to the Church Buildings Council.
- (2) The Commissioners shall also send a copy of every such scheme to the registrar of the diocese concerned, who shall file it in the diocesan registry.

## **28 Application of provisions of Part 3 to pastoral church buildings schemes**

Sections 12, 14, 15 and 16 shall apply in relation to pastoral church buildings schemes as they apply to pastoral schemes which are not pastoral church buildings schemes.

## **29 Withdrawal of scheme at request of bishop**

If the bishop of the diocese concerned or, in a case to which section 15 or 16 applies, the bishops of the dioceses concerned requests or request the Commissioners not to proceed with any proposals, or to withdraw a draft scheme, the Commissioners shall comply with the request, but without prejudice to the making of fresh proposals:

## **30 Supplementary powers of Commissioners and mission 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, the Commissioners may, without reference to any other person, make such amendments to the proposals or to any draft scheme 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 mission and pastoral committee or a joint boundary 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 5**

## **CONTENTS AND EFFECT OF PASTORAL SCHEMES AND ORDERS**

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

## **31 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;

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- (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.
- (5) 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.
- (6) 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.

### **32 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 section 7 of the Patronage (Benefices) Measure 1986 (1986 No. 3) those 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 notice that the provisions are to be terminated and shall in that case serve the notice on all the persons who are or, on the 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 notice, pass a resolution that the provisions are to be terminated, and shall forthwith notify the bishop of the resolution, and the bishop shall notify the other interested parochial church councils, the Commissioners and all the persons who are or, on the termination, become, the patrons of the benefices concerned, and the 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 section 7 of that Measure on all the councils and patrons concerned, which shall have effect in substitution for the previous notice.

- (3) The termination of the provisions under subsection (2) 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 the 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.

### **33 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*

### **34 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 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) The office of a rector in a team ministry who is not subject to Common Tenure and who holds his or her office for a term of years 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 or her term of office.
- (3) No person shall be authorised under subsection (1)(b) by licence of the bishop to serve in a team ministry as a member of the team unless he or she 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:

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Provided that it shall not be necessary for the person concerned to be nominated for the purpose by the rector 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 provide for the designation or selection of 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 under that paragraph;
  - (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 or her, the designation shall cease to have effect.
- (6) 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 provided in this section, 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.
- (7) 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 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 concerned, by a subsequent licence under seal:

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 (1993 No. 2) applies.

- (8) 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 is made by the bishop's licence, it may (subject to the scheme) be varied or revoked by a subsequent licence under seal.

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- (9) The Ecclesiastical Jurisdiction Measures 1963 and 1974 shall apply to vicars in a team ministry and deacons in a team ministry as if they were incumbents of the benefice for the area of which the team ministry is established.
- (10) The Ecclesiastical Offices (Age Limit) Measure 1975 (1975 No. 2) shall apply to deacons in a team ministry 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.
- (11) 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, unless a pastoral scheme otherwise provides, the rector shall preside, except that if he or she requests otherwise or is absent a deputy chairman appointed by the meeting shall preside.
- (12) Any member of the team in a team ministry may, by notice in writing, request the rector to convene a team meeting under subsection (11) 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.
- (13) Sub-paragraphs (1), (2), (3) and (5) 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.
- (14) 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 (6), (7) and (13) and the provisions of Schedule 3 referred to in those subsections shall have effect as if the references to the area of the benefice were references to the combined area of the benefices concerned.
- (15) 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.
- (16) 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 (3), (6) and (11), 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.
- (17) 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 subsection (2) 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 that subsection.
- (18) In this section—

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“ecclesiastical property” has the same meaning as in section 12(3) of the Acquisition of Land Act 1981 (c. 67);

“statutory notice” means a notice given in pursuance of any enactment or of any instrument made under an enactment.

### **35 Establishment of group ministries**

- (1) A pastoral scheme may provide 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;
  - (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 far as to make the best possible provision for the cure of souls throughout the area of the group ministry:

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 or her 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 of the office.
- (3) A pastoral scheme establishing a group ministry may provide for the designation or selection of the first person (who may be the existing incumbent) to hold any benefice as a benefice in the group, but, otherwise, 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 Chair of the chapter and, in default of such provision, the members shall elect a person to be known as the “Chair”, normally for a term of three years; and the Chair shall convene meetings of the chapter at regular intervals and shall preside when present, and in his absence a deputy Chair 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 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.

### **36 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—
- (a) terminate a team ministry by abolishing the offices of the vicars;
  - (b) alter a team ministry by abolishing one or more of the offices of the vicars or increasing the number of such offices;
  - (c) 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;
  - (d) alter a team ministry by providing for the vicars of the team to be chosen by the body entitled to present the rector, in accordance with paragraph 2(1) of Schedule 3;
  - (e) terminate a group ministry by abolishing the rights and duties attaching to the benefices in the group under section 35;
  - (f) alter a group ministry by reducing or increasing or changing the benefices in the group;
  - (g) 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(14) of Schedule 3 and provisions relating to the matters mentioned in paragraph 4 of that 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.

#### *Other provisions as to clergy and ministry*

### **37 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.
- (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) Subject to subsections (1) and (2), 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 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

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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.

### **38 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 transfer, under section 31(1)(c), of a parish from one benefice to another may, if there is a vacancy in the office of incumbent in the benefice to which the parish is transferred at the time when the transfer takes effect, provide for the designation or selection of the incumbent of that benefice and for restricting rights of presentation on the vacancy.
- (3) 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.
- (4) Subsections (1), (2) and (3) shall not apply for the first rector of a team ministry or the first incumbent of a benefice in a group ministry to whom sections 34(4) and 35(3) respectively apply.
- (5) Paragraph 5 of Schedule 3 shall apply with respect to the admission and induction of incumbents of benefices created or affected by pastoral schemes in accordance with the provisions of that paragraph.

### **39 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;
- 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 subsection (2) 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 provision is not to come into operation until a date at least six months after the date on which the scheme is made under this Measure or, if the operation thereof is dependent on the happening of any event or contingency (other than a vacancy in the office concerned), until a date at least six months after that happening:

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 mentioned in paragraph (a), 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 subsection (3) 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 a 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.

#### **40 Compensation of clergy**

- (1) The provisions of Schedule 4 shall have effect for the purpose of conferring rights to compensation on incumbents of benefices, archdeacons and the holders of any other ecclesiastical offices who are subject to Common Tenure whose benefices or offices are dissolved, abolished, vacated or resigned in the circumstances specified in that Schedule, and of determining claims to such compensation, and for other matters relating thereto.
- (2) Subsection (1) (and Schedule 4) shall have effect in relation to a deacon as it has effect in relation to a vicar in a team ministry.

#### *Churches, churchyards and parsonage houses*

#### **41 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 by the scheme —
- (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;

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- (c) provide for a new church and for it to become, after its approval by the bishop, after consultation with the diocesan advisory committee and the mission and 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;
  - (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 bishop, after consultation with the diocesan advisory committee and the mission and 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 bishop, after consultation with the diocesan advisory committee and the mission and 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 [Marriage Act 1949 \(12, 13 & 14 Geo. 6 c. 76\)](#), as extended by paragraph 12(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 13 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;and the pastoral scheme may make such other adaptations or modifications of enactments relating to parish churches or churchwardens (including this section) 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 Parochial Registers and Records Measure 1978 (1978 No. 2).

In this subsection “register books” and “records” have respectively the same meanings as in that Measure.

## **42 Closure of churches for regular public worship**

- (1) A pastoral church buildings scheme may make a declaration of closure for regular public worship 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 6, either by the scheme (in the circumstances specified in sections 58 and 59) or by a scheme made under Part 6 for the use, the care and maintenance, the vesting in the diocesan board of finance or the demolition of the church or part of the church to which the declaration relates (in this Measure referred to as the building closed for regular public worship), and also for dealing with a churchyard or other land annexed or belonging to the church.

- (2) A declaration of closure for regular public worship may be made 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 closure for regular public worship 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 6.

## **43 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 for public 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 Marriage Act 1949 and paragraph 12 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,

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

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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 Faculty Jurisdiction Measure 1964 (1964 No. 5) 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 shall be under seal and shall be registered in the registry of the diocese, and the registrar of the diocese shall give public notice of the designation or revocation in one or more newspapers circulating in the locality.

#### **44 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 Cathedrals Measure 1963 (1963 No. 2), 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 any 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 closure for regular public worship 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 referred to in this section shall have effect notwithstanding section 3 of the [Disused Burial Grounds Act 1884 \(47 & 48 Vict. c. 72\)](#) (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 that period has objected to the draft scheme, or all such objections have been withdrawn;

and that section shall otherwise apply.

- (5) Any scheme providing for the matters referred to in this section 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 6 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 6 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 in the land.

#### **45 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 8 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 Endowments and Glebe Measure 1976 (1976 No. 4).
- (4) In this section “diocesan glebe land” and “parsonage land” have the same meanings respectively as in that Measure.

#### *Patronage*

#### **46 Provisions as to patronage**

- (1) A pastoral scheme may, with the consent of the 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.
- (3) Without prejudice to the generality of subsections (1) and (2), 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.
- (4) 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-paragraphs (7), (8) and (9), so far as they relate to the entitlement to votes of any member of a board;
  - (c) sub-paragraph (10), and
  - (d) sub-paragraph (12), so far as it relates to the transfer of the rights to be members of a board.
- (5) 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 their exercise on a renewal of the provision for plurality.
- (6) 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.
- (7) In the exercise of the powers conferred by 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 to 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 all or any of those persons or 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.
- (8) Any provision with respect to rights of patronage made by or by virtue of this section shall have effect subject to any provisions made by virtue of section 38 with respect to the incumbents and vacancies mentioned in that section.
- (9) A pastoral scheme providing for the vesting or exercise of rights of patronage under subsection (2) or (5) 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.
- (10) Nothing in this section shall affect the provisions of sections 34(4) and 35(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 those provisions.

*Endowments, stipends and other remuneration*

**47 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 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) 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 under that subsection, 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 diocesan board of finance holds 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 [Parsonages Measure 1938 \(1 & 2 Geo. 6 No. 3\)](#) shall apply to all such moneys as it applies to moneys arising from the sale of property of the benefice under that Measure, and shall have effect with the modification that references to the benefice for which the money was held or to which 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 diocesan board of finance for the benefit of any other benefice so specified; or

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- (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 58 or a parsonage house or a house for a vicar in a team ministry or an assistant curate.

*Provisions as to sinecures*

#### **48 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 closure for regular public worship in respect of it;
- (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*

#### **49 Limited extension of pastoral schemes to other dioceses**

(1) A pastoral scheme may, if the conditions specified in section 15 are complied with, apply to a diocese other than the diocese in which the proposal 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;
- (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 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 subsection (1) 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.

## **50 Schemes for the alteration of diocesan boundaries**

Where a pastoral scheme is made in pursuance of proposals formulated by a joint boundary committee appointed under section 16—

- (a) the scheme may provide for altering the boundaries between any of the dioceses represented by the joint boundary 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.

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 16, in force at the time when the scheme is made by the Commissioners.

### *Pastoral orders*

## **51 Powers exercisable by pastoral order**

The following powers exercisable under 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 31(1)(c) or to alter or define extra-parochial places under section 31(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 31(2);

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- (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 32;
- (d) the powers to provide for creating, altering or dissolving, for designating, and for naming or altering the name of, an archdeaconry or deanery under section 33;
- (e) the power to—
  - (i) assign a special cure of souls or other responsibilities to vicars in team ministries under section 34(7);
  - (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 is consistent with that member's office, under section 34(8);
  - (iii) alter a team ministry or change the office of a vicar in a team ministry under section 36(1)(b);
  - (iv) alter a team ministry under section 36(1)(c) or (d);
  - (v) establish a group ministry under section 35(1) and terminate or alter a group ministry under section 36(1)(e) or (f);
  - (vi) provide for supplementary, consequential or transitional matters under section 36(1)(g);
- (f) the power under section 38(3) to provide for the designation or selection of incumbents of benefices to be held in plurality;
- (g) the powers under section 41(1) to make provision with respect to churches;
- (h) the powers under section 45 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 46(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 46(5).
- (j) 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 47(1);
- (k) the power under section 47(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 Parsonages Measure 1938 are to be dealt with;
- (l) the powers under section 49 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 15 shall include a reference to the condition specified in section 17(3);

and accordingly those provisions of this Part, and also sections 32(4), 41(6), (7) and (8) and 47(2) and (3), shall apply, subject to any limitations specified above, to pastoral orders as they apply to pastoral schemes:

### *Supplementary*

## **52 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 mission and pastoral committee (including a joint boundary 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 or, in the case of an order made by virtue of section 17(1)(b), the mission and pastoral committee thinks 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 specified event or contingency, and different dates, events or contingencies may be specified for different provisions.

### **53 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 49 or 50, the conditions mentioned in those sections or in section 51(1), 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.
- (6) Where a pastoral order has made provision for the holding in plurality of any two or more benefices and any such provision has been terminated the bishop may, by instrument, make such consequential amendments to the order as he thinks fit.

### **54 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 mentioned in the Schedule; and
  - (b) includes certain 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 52(1).

## PART 6

### BUILDINGS CLOSED FOR REGULAR PUBLIC WORSHIP

#### *Appointment of statutory bodies for buildings closed for regular public worship*

#### **55 Functions of mission and pastoral committee concerning buildings closed for regular public worship**

- (1) The mission and pastoral committee shall be under a duty, in respect of each building proposed to be closed or closed for regular public worship (except where it is proposed to close a building and make provision for the future of the building under section 58)
  - (a) in the case of a listed building or a building situated in a conservation area, to make every endeavour to find a suitable alternative use or suitable alternative uses for the building, and
  - (b) in the case of any other building, to develop proposals for the suitable alternative use or uses of the building or for the demolition of the building and disposal of its site.
- (2) In carrying out its functions under this section the mission and pastoral committee shall obtain advice from the Commissioners, persons having expertise in the management, development and disposal of property and such other professional advisers as it thinks fit.
- (3) The mission and pastoral committee shall report to the Commissioners at such times as it thinks appropriate on the progress made in discharging its duties under subsection (1) and, in any case, within the period of six months from its last report, and also when required to do so by the Commissioners.
- (4) When the mission and pastoral committee has found a suitable alternative use or suitable alternative uses for the building or has reached the conclusion that no such use can be found or has developed proposals in accordance with subsection (1)(b) it shall report to the Commissioners with its recommendations or proposals.
- (5) The Commissioners may, in the case of any building closed for regular public worship, require the mission and pastoral committee to refer the case to them and, thereupon, the duties under subsection (1) shall be discharged by the Commissioners instead of the committee, but the Commissioners shall, in carrying out that duty, consult the committee.

#### **56 Commissioners to appoint Committee with duties in respect of buildings closed for regular public worship**

- (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 to them in relation to buildings closed for regular public worship and the preparation of pastoral (church buildings disposal) schemes, including functions under section 55.
- (2) The Commissioners shall constitute a majority of the members of the Committee but, subject to that, the Committee may include persons who are not Commissioners.

- (3) The [Church Commissioners Measure 1947 \(10 & 11 Geo. 6 No. 2\)](#) 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.

## **57 Appointment of Churches Conservation Trust**

- (1) There shall be a body corporate called the Churches Conservation Trust, with perpetual succession and a common seal.
- (2) The Churches Conservation Trust shall consist of a person to be known as the “Chair” and not less than four nor more than nine other members, and the Chair 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) Schedule 5 shall apply to the constitution and procedure of the Churches Conservation Trust.
- (4) The Churches Conservation Trust 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 Trust by this Part, together with their contents so vested.
- (5) The Churches Conservation Trust shall have power—
- (a) to hold and manage all churches and parts of churches and other property vested in the Trust by this Part or acquired under subsection (6) and, in particular, to carry out all necessary works of maintenance and repair in respect of that property and to replace, renew and provide or improve such services or facilities as are required to facilitate greater access to and use of that property;
  - (b) 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);
  - (c) to permit the occasional use of property, or to grant a licence permitting the temporary use of property, vested in the Trust for purposes considered by the Trust to be suitable and, in any case, either without charge or on payment of a fee;
  - (d) to let any property vested in the Trust 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 Church Buildings Council through its Statutory Advisory Committee, being terms which the Commissioners consider reasonable and proper having regard to all the circumstances;
  - (e) in respect of any property which the Trust has let or is proposing to let under paragraph (d), to carry out such works as the Trust considers desirable, after consultation with the Church Buildings Council through its Statutory Advisory Committee;
  - (f) to charge entrance fees for admission to any property vested in the Trust, to raise money by public subscription and appeals, and to accept gifts and bequests either for the general purposes of the Trust or on specific trusts for purposes falling within the general purposes;
  - (g) 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 Trust;

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- (h) to administer all sums coming into its hands and to invest as provided in subsection (8) any sums not immediately required for the purposes of the Trust;
  - (i) to appoint a secretary and such other officers and agents as the Trust considers necessary for the proper discharge of its duties;
  - (j) to delegate functions to local trustees or bodies.
- (6) Where the freehold interest in a building or any land annexed or belonging thereto has been disposed of under a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies and the owner of that freehold interest is unable for any reason to use the building for the use specified in the scheme including any use allowed under any covenant imposed in relation to the scheme under section 74 and is willing to dispose of the freehold interest by way of gift, the Churches Conservation Trust may, with the prior consent in writing of the Commissioners, acquire the freehold by way of gift but, before consenting to such an acquisition, the Commissioners shall—
  - (a) consult the bishop and the Church Buildings Council through its Statutory Advisory Committee; and
  - (b) be satisfied that the Churches Conservation Trust will have the resources to meet the cost of maintaining the church closed for regular public worship.
- (7) The Commissioners shall seal the deed of transfer of any land acquired under subsection (6).
- (8) The powers to invest any sums referred to in subsection (5)(h) 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 (c. 29) (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 \(6 & 7 Eliz. 2 No. 1\)](#).
- (9) The powers conferred on the Churches Conservation Trust by subsection (5)(c) and (d) may be exercised so as to permit the use of a church or part of a church vested in the Trust 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.
- (10) The terms of a lease granted under subsection (5)(d) 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 74(2).
- (11) Where any such property has been let under subsection (5)(d) and the terms of the lease provide to the effect that no alteration may be made to it without the approval of the Churches Conservation Trust, its approval shall only be given after consultation with the Church Buildings Council through its Statutory Advisory Committee.
- (12) 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)(d) which is specified in the document shall be conclusive evidence that those terms have been so approved.
- (13) As a condition of giving their approval to the terms of any lease under subsection (5)(d) the Commissioners may require the Churches Conservation Trust to include in the

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lease such provisions, if any, as appear to them to be necessary to give effect to those terms.

- (14) The Churches Conservation Trust 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 pastoral (church buildings disposal) scheme.
- (15) All expenditure of the Churches Conservation Trust shall be defrayed out of the sums in its hands.
- (16) The Churches Conservation Trust shall give to the Commissioners and to the Church Buildings Council through its Statutory Advisory Committee such information and advice as the Commissioners or the Council may, from time to time, require about—
- (a) the Trust’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 Trust or which the Commissioners consider is likely to be proposed for vesting in the Trust.
- (17) If—
- (a) the Church Buildings Council has prepared a report, under section 21(7), about a church in respect of which the mission and pastoral committee is considering whether to make a recommendation that a declaration of closure for regular public worship be made, and
  - (b) the Commissioners, after consulting the Council through its Statutory Advisory Committee, are of the opinion that, in the event of the church being closed for regular public worship and no suitable or appropriate alternative use being found for it, it is likely 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 of the Church of England,
- the Commissioners may, with the consent of the mission and pastoral committee, and subject to any conditions or limitations which they may specify, request the Churches Conservation Trust to give advice to them and, if specified, advice or assistance to any other specified person or body, in identifying and developing proposals for any use or uses of the church, or any part of it, which would be consistent with the primary use of the church as a whole as a place of worship and which would have the object of ensuring the continuance of that use.
- (18) Notwithstanding subsection (4), the Trust shall have power to give such advice and assistance as is described in subsection (17).
- (19) The Commissioners may make grants out of their general fund in respect of the expenditure of the Churches Conservation Trust:
- Provided that the total amount of the grants made in any funding period shall not exceed the figure determined in respect of that period in accordance with section 65.
- (20) The Churches Conservation Trust shall, as soon as possible after the end of each 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 Church Buildings Council; and in this subsection “accounting year” means the period of twelve months beginning on a date to be determined by the Trust with the agreement of the Commissioners.

- (21) The Churches Conservation Trust shall transmit copies of the said accounts and report to the Secretary of State and the Secretary of State shall lay copies thereof before each House of Parliament and the Commissioners shall transmit copies of the said accounts and report to the Secretary General of the General Synod and the Secretary General shall lay copies thereof before the General Synod.

*Provisions for future use of buildings closed for regular  
public worship in pastoral church buildings schemes*

**58 Provision by pastoral church buildings scheme for appropriation or demolition of church to be closed for regular public worship 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 building or church buildings in that area which should thereupon be declared closed for regular public worship and where the Commissioners, after consulting the Church Buildings Council through its Statutory Advisory Committee, are satisfied with the proposals made for the future of the church building or any of the church buildings to be closed, then a pastoral church buildings scheme may further provide—
- (a) for the appropriation of the building to be closed in accordance with section 63(1)(a) or for its demolition, and for any of the matters mentioned in section 63(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 (4), for the application of the net proceeds and net premiums to defray the cost of providing the new church or place of worship 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 64.
- (2) A pastoral church buildings scheme which provides for the demolition of a building closed for regular public worship may provide for its demolition by the diocesan board of finance.
- (3) Where a pastoral church buildings scheme makes such provision as is mentioned in subsection (1), the declaration of closure for regular public worship 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.
- (4) Where before a declaration of closure for regular public worship is made by a pastoral church buildings scheme under this section in respect of a church which was the subject of a sharing agreement under the Sharing of Church Buildings Act 1969 (c. 38) and which on the termination of the agreement was vested in an incumbent by section 9(3) of that Act, any contribution in the nature of capital made in accordance with the agreement by any party thereto, other than a party acting on behalf of the Church of England, or so much thereof as the Commissioners may determine, may be



repaid to that party by the Commissioners out of the proceeds of any sale or exchange, or the premiums on any lease or licence, of that church, any part of that church, or the site thereof before the net proceeds or net premiums, as the case may be, are applied in accordance with subsection (1)(c).

- (5) 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.
- (6) 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 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.

## **59 Other provision by pastoral church buildings scheme for church to be closed for regular public worship**

- (1) Where a pastoral church buildings scheme makes a declaration of closure of a church for regular public worship in respect of any church or part of a church, not being a case to which section 58 applies, and the Commissioners are satisfied that a suitable use or uses will be available for the building to be closed for regular public worship when the declaration takes effect, the pastoral church buildings scheme may provide for the appropriation of the building to the said use or uses, and may make further provision for any of the matters mentioned in section 63(2) and section 63(5) to (11) shall apply accordingly.
- (2) Where a pastoral church buildings scheme makes a declaration of closure for regular public worship 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 building to be closed for regular public worship when the declaration takes effect, then, if it appears to the Commissioners—
  - (a) after consultation with the Church Buildings Council through its Statutory Advisory Committee 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 Churches Conservation Trust will have the resources to meet the cost of repairing and maintaining it,the scheme may provide for its care and maintenance by the Trust.
- (3) Where a pastoral church buildings scheme provides for the care and maintenance of a building to be closed for regular public worship or any part thereof by the Trust, the scheme may also provide for the care and maintenance by the Trust 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.
- (4) Where a pastoral church buildings scheme contains a declaration of closure of a church for regular public worship and the church is neither a listed building nor situated in a conservation area, and the Commissioners are satisfied with the proposals for the future of the building, the scheme may provide for the demolition of the building to be

closed for regular public worship and for any of the matters for which section 63(4) makes provision and section 63(5) to (11) shall apply accordingly.

## **60 No other cases to be dealt with by pastoral church buildings schemes**

Except in the cases specified in sections 58 and 59 and without prejudice to the provisions relating to the restoration of a building closed for regular public worship to use as a church, no further provision beyond the declaration of closure for regular public worship itself shall be made by a pastoral church buildings scheme with respect to the building closed for regular public worship, but such provision shall be made by the following provisions of this Part and schemes made under it (in this Measure referred to as pastoral (church buildings disposal) schemes).

### *Pastoral (church buildings disposal) schemes*

## **61 Use seeking period**

- (1) Where a declaration of closure for regular public worship is made in a case to which neither section 58 nor section 59 applies, the building closed for regular public worship, 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:

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

- (2) During the period between the taking effect of a declaration of closure for regular public worship and the coming into operation of a pastoral (church buildings disposal) scheme with respect to the building closed for regular public worship—
- (a) the diocesan board of finance shall be responsible for the care and maintenance of the building closed for regular public worship, 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, but after consulting the diocesan advisory committee and the chancellor of the diocese unless the board considers that, having regard to the urgency of the need to safeguard the contents, it is not practicable to do so, transfer the contents of the building closed for regular public worship 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 building closed for regular public worship is situated permit the building to be used occasionally for worship, including worship by persons belonging to other Christian Churches;
  - (d) while incurring no financial obligation, the incumbent or priest in charge and churchwardens of the parish in which the building closed for regular public

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worship 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 closure for regular public worship taking effect, any liability of a parochial church council or rector (including a lay rector) for the repair and maintenance of the building closed for regular public worship and the safe keeping of its contents shall cease, and the [Inspection of Churches Measure 1955 \(3 & 4 Eliz. 2 No. 1\)](#) shall cease to apply to the building.
- (4) Where the diocesan board of finance transfers any of the contents of the building closed for regular public worship to some other place, the board shall serve a notice on the Commissioners, the Church Buildings Council, the Churches Conservation Trust 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.

## **62 Procedure for making pastoral (church buildings disposal) schemes**

- (1) The Commissioners may at any time or, where the proviso to section 61(1) applies, after the period of six months mentioned therein has expired, and shall in any case not later than two years after the declaration of closure for regular public worship takes effect, prepare a draft scheme with respect to the building closed for regular public worship providing for any of the matters mentioned in section 63:

Provided that if before the end of the period of two 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 to do so, 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 which provides for the demolition or the care and maintenance by the Churches Conservation Trust of the building closed for regular public worship or any part of it the Commissioners shall consult the Church Buildings Council through its Statutory Advisory Committee:

Provided that if the Council has advised that the demolition of the building closed for regular public worship or part of it would not in its opinion be objectionable this subsection shall not apply in relation to that building or part, as the case may be.

- (3) After preparing the draft scheme and before proceeding under the following provisions of this section the Commissioners shall consult the bishop.
- (4) After taking into account any comments made by the bishop, if they decide to proceed with the draft scheme, the Commissioners shall serve a copy of the draft scheme on the diocesan board of finance, the local planning authority or authorities concerned, the parish council or parish meeting concerned, the Commonwealth War Graves Commission, English Heritage, the Joint Committee of the National Amenity Societies and the Church Buildings Council and, if the draft scheme provides for the care and maintenance by the Churches Conservation Trust of the building closed for regular public worship or any part thereof, on that Trust.
- (5) The Commissioners shall also publish in one or more newspapers circulating in the locality in which the building closed for regular public worship is situated a notice stating the effect of the draft scheme and naming a place or places where a copy thereof

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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.

- (6) Where the draft scheme makes or is to make any such provision as is referred to in section 63(1)(a) and it is proposed to make any architectural or structural changes in the building closed for regular public worship or any part of it to facilitate the use or uses referred to in that section, the Commissioners shall not make the scheme unless they have first consulted the Church Buildings Council through its Statutory Advisory Committee on those proposed changes.
- (7) 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.
- (8) The Commissioners may, if they think fit, afford an opportunity to any person, whether he has made written representations or not, to make oral representations with respect to the draft scheme.
- (9) The Commissioners may, before or after the period within which written representations may be made under this section, extend that period, and any representations made within the period so extended shall be deemed to be duly made.
- (10) The Commissioners may at any time make such amendments to the draft scheme as may appear to them to be necessary for the purposes of correcting any drafting mistake or omission.
- (11) 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, and shall thereby make the scheme.
- (12) If the Commissioners decide in accordance with subsection (7) not to proceed with a draft scheme they shall as soon as possible prepare a new draft scheme, and subsections (2) to (11) shall apply.
- (13) Sections 14 and 27 shall apply, with the necessary modifications, to schemes under this section as they apply to pastoral church buildings schemes.

### **63 Contents of pastoral (church buildings disposal) schemes**

- (1) A pastoral (church buildings disposal) scheme shall make the following provision for the building closed for regular public worship, that is to say—
  - (a) if a use or uses appearing to the Commissioners to be suitable have been found for the building or any part of it, 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 of it and it appears to the Commissioners—
    - (i) after consultation with the Church Buildings Council through its Statutory Advisory Committee 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 Churches Conservation Trust will have the resources to meet the cost of repairing and maintaining it,

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- the scheme may provide for its care and maintenance by the Trust.
- (c) if the building or any part of it is not appropriated or provided for under paragraph (a) or (b) the scheme may, with the consent of the diocesan board of finance, provide for the building or any part of it 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 of it is not appropriated or provided for under paragraphs (a) to (c), the scheme shall provide for its demolition either by the Commissioners or by the diocesan board of finance.
- (2) Where a pastoral (church buildings disposal) scheme provides for the appropriation of the building closed for regular public worship or any part of it 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 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 itself 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 or partly the one and partly the other;
  - (c) for empowering the Commissioners or the diocesan board of finance, subject to any conditions prescribed by the scheme, to sell, give or exchange the property concerned or any part of it for such use or uses.
- (3) Where a pastoral (church buildings disposal) scheme provides for the building closed for regular public worship or any part of it 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 building, or the church of which it forms part, to a use or uses specified or described in the scheme;
  - (b) for empowering the board itself 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 or partly the one and partly the other;
  - (c) for empowering the Commissioners, subject to any conditions prescribed by the scheme, to sell, give or exchange that land or any part of it for such use or uses;
  - (d) for transferring to the 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) notwithstanding that the land is or has been used for burials.
- (4) Where a pastoral (church buildings disposal) scheme provides for the demolition of the building closed for regular public worship or any part of it, it may also provide—
- (a) for the sale, gift, exchange or lease by the Commissioners or the diocesan board of finance, as the case may be, of the site or part of the site of the demolished building or part of the building, with or without the whole or any part of the land annexed or belonging to the building or to the church of which it forms part;
  - (b) for the disposal of the materials arising from the demolition;
  - (c) for specifying the use or uses for which any land sold, given, exchanged or let by the Commissioners or the diocesan board of finance, as the case may be, is to be used or allowing it to be used without limitation;

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- (d) for appropriating the site or any part of it 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 under those subsections shall be paid to the Commissioners, who, subject to subsections (6), (7), (8) and (9) and to an appropriate order made under section 65(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 64, 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 Churches Conservation Trust by section 57(14) the Trust 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 Trust, the sum contributed by the Trust under that subsection, or so much of it as the Commissioners may, with the agreement of the Secretary of State, determine, shall be repaid to the Trust by the Commissioners out of the proceeds of any sale or exchange, or the premium 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 power referred to in subsection (6) the Churches Conservation Trust 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 Trust, and the church or part or the site thereof is let or licensed by the diocesan board of finance under subsection (2), (3) or (4) or let by the Commissioners under subsection (4), the net rent from time to time paid under those subsections shall be paid by the said board or the Commissioners, as the case may be, to the Trust until the sum contributed by the Trust, or so much of it as the Commissioners may, with the agreement of the Secretary of State, determine, has been repaid to the Trust out of such rent.
- (8) Where before a declaration of closure for regular public worship 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 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 of it 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 of 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 church buildings scheme makes a declaration of closure for regular public worship in respect of a church 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 pastoral (church buildings disposal) scheme which makes provision, within the period of three years from the declaration of closure or such longer period as the Commissioners may allow, for the building closed for regular public worship also provides for any of the matters authorised to be included in the scheme by subsection (2)(b) or (c), subsection (3)(b) or (c) or subsection (4)(a) or (b)—

- (a) the proceeds of any sale or exchange made, and the premiums of 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 58(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 the diocesan board of finance.
- (11) Where a pastoral (church buildings disposal) scheme makes provision for any land which has been used for burials, that provision shall have effect notwithstanding section 3 of the 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 pastoral (church buildings disposal) scheme provides for the care and maintenance of the building closed for regular public worship or any part of it by the Churches Conservation Trust, the scheme may also provide for the care and maintenance by the Trust 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 58 and 59, 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 building closed for regular public worship or a part of it may be appropriated by a pastoral church buildings or pastoral (church buildings disposal) 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 52 shall apply to pastoral (church buildings disposal) schemes in like manner as it applies to pastoral church buildings schemes, with the omission of the reference to the agreement of the bishop or bishops concerned.

#### **64 Application of remainder of proceeds of sales and other disposals**

- (1) The Commissioners shall allocate the moneys comprised in the remaining one-third of the net proceeds and net premium, or the balance thereof, mentioned in sections 58(1) and 63(5), in such proportions as they may determine between the Churches Conservation Trust, the temporary maintenance account and the diocesan pastoral accounts of such dioceses as they may determine, subject in the case of any amounts allocated to the Churches Conservation Trust, to any order made under section 65(1).
- (2) In exercising their duty to allocate moneys under subsection (1) the Commissioners may decide not to allocate moneys to any or all of the accounts mentioned in that

subsection, in which case all the moneys not so allocated shall be paid to the Churches Conservation Trust.

## **65 Orders of Commissioners determining or varying payments to Churches Conservation Trust**

- (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 (comprising grants made under section 57(19) and moneys allocated under section 64(1)) to be paid by the Commissioners to the Churches Conservation Trust;
  - (b) may in respect of any funding period vary the proportions of two-thirds and one-third specified in sections 58(1) and 63(5).
- (2) An order made under subsection (1) may specify conditions which must be satisfied before a payment is made by the Commissioners.
- (3) An order made under subsection (1)(b) shall apply to all transactions completed after the date on which the order comes into operation, except such transactions (if any) as may be specified in the order.
- (4) An order under this section may be varied or revoked by a subsequent order made under it 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.
- (5) 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.
- (6) Where the Business 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 or she wishes the order to be debated, the order shall for the purposes of subsection (5) be deemed to have been approved by the General Synod.
- (7) The [Statutory Instruments Act 1946 \(9 & 10 Geo. 6 c. 36\)](#) shall apply to any order approved by the General Synod under subsection (5) 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.

## **66 Pastoral (church buildings disposal) 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 1st April 1964, and the incumbent (if any), the patron and the parochial church council of the parish in which the church is situated give their consent, the Commissioners may make an order declaring the church or part to be closed for regular public worship and thereupon this Part shall apply as if the declaration were a declaration of closure for regular public worship made by a pastoral church buildings scheme.
- (2) Where any church or part of a church has at any time been demolished otherwise than under this Part, a pastoral (church buildings disposal) scheme providing for all



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or any of the matters mentioned in section 63(4) may at any time after the demolition, be prepared and made in accordance with subsections (2) to (11) of section 62 and subsection (13) of section 62 shall apply.

- (3) Where by virtue of subsection (2) a pastoral (church buildings disposal) scheme provides for any of the matters mentioned in section 63(4)(a), section 63(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 pastoral (church buildings disposal) scheme which provides for the demolition of a building closed for regular public worship also provides for any of those matters:

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 58(1)(c).

## **67 Schemes under the Charities Act 1993 for redundant chapels belonging to charities**

- (1) The power of the court (as defined by the Charities Act 1993 (c. 10)) to make schemes under its jurisdiction with respect to charities, and the power of the Charity Commission to make schemes under that 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 96(2)(c) of that 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 sections 74(1) and 78 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 any of those matters.
- (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 otherwise this section shall not apply to a chapel held on separate trusts relating to the use of the chapel for religious worship.
- (5) Section 66 shall not apply to any consecrated chapel belonging to a charity.

## **68 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 closure for regular public worship or the exercise of powers under section 67.
- (2) Subject to subsections (3) and (4), 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 44.
- (3) Without prejudice to subsection (15)(a), on an application by the incumbent of the benefice comprising or including the parish in which the church is situated or, where the benefice is vacant, the bishop in the name and on behalf of the incumbent in the corporate capacity of the incumbent, the court may grant a faculty for a lease to be granted by the incumbent or, as the case may be, the bishop, of part of a church, provided that the court shall ensure that the premises remaining unlet, together with the premises let, under any lease or leases granted under this subsection, are, taken as a whole, used primarily as a place of worship.
- (4) On an application by any person referred to in subsection (3) the court may, whether or not it grants a faculty under that subsection, grant a faculty for the lease of any land belonging to or annexed to a church.
- (5) The parochial church council for the parish in which the church or land is situated shall be a party to any lease granted under subsection (3) or (4) and, without prejudice to the rights and obligations of the lessor, shall have the same rights as the lessor to enforce any term of the lease which may be binding on the lessee, including any rights to forfeit the lease or to distrain on the property of the lessee.
- (6) Subject to any directions of the court, any rent or other payment payable under any lease granted under subsection (3) or (4) shall be paid to the parochial church council.
- (7) Subject to subsections (6) and (8), any such lease shall be for such period, and may contain such terms, as the court may determine and the lease or any terms contained therein may be varied at any time by the court on application by any party to the lease or otherwise as authorised by the court.
- (8) Any such lease shall be deemed to contain the following terms—
  - (a) in the case of a lease of part of a church granted under subsection (3), the premises which are the subject of the lease shall not be used for purposes which are, or in a way which is, inconsistent with the use specified in that subsection, and
  - (b) in the case of a lease granted under subsection (3) or (4), no use shall be permitted for residential purposes except by a person who, as an employee of the lessor or otherwise, is required, as a condition of the employment or contract, to reside in the premises or part thereof,and the lease shall be deemed to contain a covenant on the part of the lessee to perform those terms.
- (9) Where any lease is granted under subsection (3) or (4)—
  - (a) in the case of a lease of premises to trustees to be held on trust to be used for the purposes of a place of worship, the trustees shall not be entitled to exercise

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- the right conferred by the [Places of Worship \(Enfranchisement\) Act 1920 \(10 & 11 Geo. 5 c. 56\)](#) to enlarge the leasehold interest by acquiring the freehold;
- (b) in the case of a lease consisting of a tenancy of premises occupied or to be occupied wholly or partly for the purposes of a business, the tenancy shall not be subject to any provision of Part II of the [Landlord and Tenant Act 1954 \(2 & 3 Eliz 2 c. 56\)](#) under which the lease is continued until determined, or under which the tenant is entitled to apply to the court for the grant of a new tenancy, in accordance with the provisions of that Part; and
- (c) in the case of a lease of land consisting of a tenancy which would, but for this subsection, be a farm business tenancy to which the Agricultural Tenancies Act 1995 (c. 8) applied, that Act shall not apply to the tenancy and, accordingly, the tenant shall not be entitled to exercise any of the rights conferred by Part I, II or III of that Act.
- (10) Without prejudice to section 103, where, at any time, there is no parochial church council, the foregoing provisions of this section shall have effect and any lease granted under subsection (3) or (4) shall be construed as if, for any reference therein to the council, there were substituted a reference to the churchwardens.
- (11) Where a lease has been granted under subsection (3) or (4) and, at any time, the benefice is vacant, the bishop in the name and on behalf of the incumbent in the incumbent's corporate capacity may exercise the power conferred on the lessor by subsection (7) to apply to the court for a variation of the lease or any terms therein and the lease shall be construed as if any reference in it to the incumbent were a reference to the bishop acting in the name and on behalf of the incumbent in the incumbent's corporate capacity.
- (12) Any question relating to the interpretation or enforcement of any term of any lease granted under subsection (3) or (4) shall be determined by the court and section 11 of the Faculty Jurisdiction Measure 1964 ([1964 No. 5](#)) shall apply in relation to proceedings under subsection (7) and this subsection as it applies to the proceedings mentioned in that section.
- (13) Section 16(2), so far only as it applies to the archdeacon, (3) and (4) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 ([1991 No. 1](#)) shall apply to proceedings under subsections (3), (4), (7) and (12) as they apply to other proceedings for a faculty.
- (14) In this section, except subsection (9)(b), "the court" means the consistory court of the diocese in which the building is situated or, in the case of the diocese of Canterbury, the commissary court of that diocese and section 14 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 shall not apply to the jurisdiction of the courts conferred by the foregoing provisions of this section.
- (15) 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;
- (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.

- (16) Where any church other than a church which has been declared closed for regular public worship is purchased compulsorily or is purchased by agreement under an enactment conferring powers of compulsory purchase, then for the purpose 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 building closed for regular public worship or any land annexed or belonging to a building closed for regular public worship shall be deemed not to be applicable.

*Amendment and revocation of pastoral (church buildings disposal) schemes and provisions in pastoral church buildings schemes relating to closure of buildings for regular public worship*

## **69 Amendment of pastoral (church buildings disposal) schemes and provisions**

- (1) A pastoral (church buildings disposal) scheme, and such provisions of a pastoral church buildings scheme as are made by virtue of section 58 or 59, may be amended by a subsequent pastoral (church buildings disposal) scheme prepared and made in accordance with subsections (2) to (11) of section 62, and subsection (13) shall apply.
- (2) An amending pastoral (church buildings disposal) scheme may revoke all or any provisions of the previous pastoral (church buildings disposal) scheme or, as the case may be, any such provisions of a pastoral church buildings scheme, and may substitute or add other provisions providing for any of the matters mentioned in section 63, 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 pastoral (church buildings disposal) scheme which provides—
- (a) for empowering the Commissioners to sell, give or exchange any property vested in the Churches Conservation Trust, being a building closed for regular public worship or any part of it 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 any such use or uses, 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 71(2) or in the diocesan board of finance under section 71(5), as the circumstances require, it shall cease to be vested in the Trust.

Before preparing a draft of such a scheme the Commissioners shall consult the Trust.

- (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 Churches Conservation Trust on the care and maintenance of the property to which the amending pastoral (church buildings disposal) scheme relates, or so much of it

as the Commissioners may, with the agreement of the Secretary of State, determine, shall be repaid to the Trust by the Commissioners, and subject as aforesaid and to an appropriate order made under section 65(1)(b) the net proceeds or net premiums, as the case may be, shall be paid and applied in accordance with section 63(5).

- (5) Where any property to which the amending pastoral (church buildings disposal) 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 board to the Churches Conservation Trust until the sum expended by the Trust 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 Trust out of the rent.
- (6) A pastoral (church buildings disposal) scheme or any provision of it, and any such provision of a pastoral church buildings scheme as is referred to in subsection (1) may be amended or revoked under this section before it comes into operation.

## **70 Restoration of building closed for regular public worship to use as church building**

A pastoral church buildings scheme may provide that a building closed for regular public worship or part of such a building which is vested in the Churches Conservation Trust 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 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 closure for regular public worship and revoking or amending any provisions, whether in a pastoral church buildings scheme or pastoral (church buildings disposal) scheme, made under this Part in relation to the building or part of the building closed for regular public worship.

### *Vesting of property and other supplementary provisions*

## **71 Vesting of property**

- (1) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 applies provides for the demolition of the building closed for regular public worship or any part of it, the building or part and any land which under the scheme is to be sold, given, exchanged or let with the site of the demolished building or part 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 in question is to be demolished.

- (2) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies provides for empowering the Commissioners

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to sell, give or exchange the building closed for regular public worship or any part of it 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 or land shall vest in the Commissioners on the date when the relevant provisions of the scheme come into operation.

- (3) Where a pastoral (church buildings disposal) scheme or pastoral church buildings scheme to which section 58 or 59 applies provides for land annexed or belonging to a building closed for regular public worship to be appropriated to use as the site for a parsonage house or part of the house or as parsonage land the land shall on the date when any such provision comes into operation vest in the incumbent of the benefice in which the land is situated as property of the benefice and without any conveyance or further assurance.
- (4) Where a pastoral (church buildings disposal) scheme or pastoral church buildings scheme to which section 58 or 59 applies provides for land annexed or belonging to a building closed for regular public worship or the whole or part of the site of a demolished building or land annexed or belonging to it to be appropriated for any ecclesiastical purposes of the parish the land or site shall on the date when any such provision comes into operation vest in the diocesan board of finance without any conveyance or further assurance to be held on trust for the parochial church council for that parish to be used for those purposes.
- (5) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies provides for the use, holding, letting or licensing by the diocesan board of finance of the building closed for regular public worship or any part of it 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 or land is not, on the date when the relevant provisions of the scheme come into operation, vested in the board, it shall, by virtue of this Measure, without any conveyance or other assurance, vest in the board on that date.
- (6) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies provides for appropriating any land to use as part of a churchyard or burial ground, the land shall, on the date when the relevant provisions of the scheme come into operation, vest by virtue of this Measure, without any conveyance or other assurance, in the person in whom the churchyard or burial ground is vested.
- (7) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies provides for the care and maintenance by the Churches Conservation Trust of a building closed for regular public worship or any part of it or any land annexed or belonging to the building or the church of which it forms part, the building or part or land shall, by virtue of this Measure, without any conveyance or other assurance vest in the Trust.
- (8) Where a pastoral (church buildings disposal) scheme provides for transferring to the diocesan board of finance responsibility for the care and maintenance of any land annexed or belonging to a building closed for regular public worship 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 board.
- (9) Any property vesting under this section or under section 61(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 of the rights, 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 its disposal or use.

- (10) The body in whom any property vests under this section or under section 61(1) 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.

## **72 Rights of way and other easements**

- (1) Where any land annexed or belonging to a church the whole or part of which is a building closed for regular public worship does not vest by virtue of this Measure, in the diocesan board of finance, the Commissioners or the Churches Conservation Trust, the pastoral (church buildings disposal) scheme or (in a case to which section 58 or 59 applies) the pastoral church buildings scheme may provide for conferring on any of the bodies in whom the building or the site of the building or any part of the building or site or any other land annexed or belonging to the church vests, 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 pastoral church buildings scheme or the pastoral (church buildings disposal) 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 any such use), to be used for such purposes as appear to the Commissioners to be reasonable, or to facilitate such use; or
  - (c) to enable the Churches Conservation Trust to perform its functions with respect to any property so vesting in the Trust, 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 to a part of which a declaration of closure for regular public worship 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 Churches Conservation Trust or the diocesan board of finance, the said rights of way shall be enjoyed by the Trust or the board, as the case may be, so far as is necessary for the performance of its functions and by members of the public for the purpose of visiting the church.
- (3) Where rights of way or other easements have been acquired by the Commissioners under section 73 and land for the benefit of which the rights were acquired vests in the Churches Conservation Trust by virtue of this Measure those rights shall also vest in the Trust.

## **73 Acquisition of rights of way and other easements**

Where the Commissioners consider that it is necessary or appropriate to acquire any right of way or other easement for the benefit of land which has vested or is to vest in

the Churches Conservation Trust by virtue of this Measure or is to be disposed of by them under this Measure they may acquire the right of way or easement in question.

#### **74 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 71 or is appropriated to a use or uses specified or described in a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies or is vested in the diocesan board of finance in pursuance of a pastoral (church buildings disposal) 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 Churches Conservation Trust under section 71, the jurisdiction under subsection (1)(b) 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 subject thereto and subject to any terms included in a lease under section 57(10) it shall continue to be subject to the legal effects of consecration.
- (3) 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.

#### **75 Power to impose and enforce covenants**

- (1) Without prejudice to any restriction or requirement in a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 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 section 63(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 63(2), (3) or (4).
- (3) Section 84 (except subsection (2)) of the Law of Property Act 1925 (c. 20) (which enables the Upper Tribunal to discharge or modify restrictions affecting land) shall not apply in relation to conditions and requirements imposed under subsection (1).



## **76 Disposal of font, communion table and plate, and other contents**

- (1) Where a pastoral church buildings scheme or pastoral (church buildings disposal) scheme makes provision for a church or part of a church to be demolished or appropriated to any use specified or described in the scheme the bishop shall, unless the scheme makes other provision, give directions as to how the font, communion table and plate used for the purpose of Holy Communion shall be dealt with but, if the church or part is so demolished or appropriated before any such directions are given or fully implemented, the diocesan board of finance shall, subject to any provision of the scheme, be responsible for the care, maintenance and safeguarding of any such items.
- (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 to the church.
- (3) Where any items are disposed of in accordance with subsection (1) or (2) the bishop shall, subject to any provision of the scheme, give directions as to how any proceeds of their sale are to be applied.
- (4) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies provides for the care and maintenance of a church or part of a church by the Churches Conservation Trust or where a pastoral (church buildings disposal) 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 Trust 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 other than any tombstones, monuments or memorials as are referred to in subsection (2).
- (5) No faculty shall be required for anything done in pursuance of this section.

## **77 Trusts for the repair etc. of buildings closed for regular public worship and contents**

- (1) If and so long as a building closed for regular public worship or part of it—
  - (a) is vested in the diocesan board of finance pending the making or in pursuance of a pastoral (church buildings disposal) scheme;
  - (b) is vested in the Churches Conservation Trust in pursuance of a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies; or
  - (c) is vested in the Commissioners or the board for use or uses specified or described in a pastoral church buildings scheme or pastoral (church buildings disposal) 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; and
- (ii) if the building closed for regular public worship consists of part of a church or only part of the building is vested, it shall only be so applicable if and to the extent that the scheme so provides.

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- (2) If and so long as any land annexed or belonging to a building closed for regular public worship is vested in the diocesan board of finance in pursuance of a pastoral (church buildings disposal) scheme or is vested in the Churches Conservation Trust in pursuance of a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 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 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 the Charities Act 1993, and paragraph 9(6) of Schedule 3 to this Measure shall apply to charities affected by a pastoral (church buildings disposal) 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 closure for regular public worship 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 church is situated, or in such other church as the bishop may direct in an instrument under seal with the approval of the Charity Commission.

## **78 Disposal of human remains**

- (1) Where any human remains are believed to be buried in or beneath a building closed for regular public worship or in any land to which a pastoral (church buildings disposal) scheme applies, the body or person in whom the property is vested or to whom it is leased or licensed shall not, subject to this section, 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.
- (2) The requirements of subsection (1) and of Schedule 6 shall not apply—
- (a) to a building closed for regular public worship 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 building closed for regular public worship used as mentioned in paragraph (a);

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- (c) to any land which is to be used as part of a churchyard or burial ground and is vested under section 71(6) 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 building closed for regular public worship or part thereof, or the intended use or development of any property to which a pastoral (church buildings disposal) scheme applies or any part of such property, will not involve the disturbance of human remains, he or she 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 the demolition of the building or part thereof, or such use or development of the property or part, 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.
- (4) Any order made under subsection (3) 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 of it 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 Local Land Charges Act 1975 (c. 76)), 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 nonetheless apply.
- (7) Where there is situated in any building or part of a building closed for regular public worship or any land to which a pastoral (church buildings disposal) scheme applies any monument or memorial commemorating a deceased person whose remains are not buried in the building or part of it or land, the body or person in whom the building or part 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 of it, unless the monument or memorial has been disposed of in such manner as the bishop after consultation with the diocesan advisory committee for the care of churches has directed, or the bishop has after such consultation dispensed with this requirement.
- (8) No faculty shall be required for anything done in pursuance of this section or Schedule 6.
- (9) In this section any reference to a pastoral (church buildings disposal) scheme shall include a reference to the provisions of a pastoral scheme or a pastoral church buildings scheme providing for the matters referred to in section 44, 58 or 59.

*Preservation of churches closed for regular public worship by the Secretary of State*

## **79 Transfer of churches closed for regular public worship**

- (1) Notwithstanding anything in this Part—

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- (a) where a building closed for regular public worship or any part of such a building is vested in the diocesan board of finance, whether in pursuance of a pastoral church buildings scheme or a pastoral (church buildings disposal) scheme or pending the making of a pastoral (church buildings disposal) 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 building closed for regular public worship or any part of such a building is vested in the Churches Conservation Trust in pursuance of a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies the Trust may enter into and carry out such an agreement for the acquisition and preservation by the Secretary of State of the building or part with or without other land so vested;
- (c) where a building closed for regular public worship or any part of such a building is situated in England and is vested in the diocesan board of finance, whether in pursuance of a pastoral church buildings scheme or a pastoral (church buildings disposal) scheme or pending the making of a pastoral (church buildings disposal) scheme, the board may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with English Heritage for the acquisition and preservation by English Heritage of the building or part with or without other land so situated and so vested in the board;
- (d) where a building closed for regular public worship or any part of such a building is situated in England and is vested in the Churches Conservation Trust in pursuance of a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies, the Trust may enter into and carry out an agreement with English Heritage for the acquisition and preservation by English Heritage of the building or part with or without any other land so situated and so vested;

and on any such acquisition this Part, except so far as it is applied by subsections (3) and (4), and any pastoral (church buildings disposal) scheme made with respect to the building, or any provisions of a pastoral church buildings scheme so made by virtue of section 58 or 59 shall cease to apply to the property acquired.

- (2) English Heritage shall not enter into an agreement under subsection (1)(c) or (d) without the consent of the Secretary of State.
- (3) Where a building closed for regular public worship or part of such a building is acquired under subsection (1)—
  - (a) any rights of way or other easements conferred under section 72(1) and any rights of way enjoyed under section 72(2) shall vest in the Secretary of State or (as the case may be) English Heritage or be enjoyed by him or her or it for the performance of his or her or its functions in relation to the property or for giving reasonable access to the public;
  - (b) sections 71(9), 74(2), 76(1) and 76(2) shall apply as they apply to buildings or parts of buildings and land vested in the Churches Conservation Trust;
  - (c) section 78(1) shall not apply to a disposal to the Secretary of State or (as the case may be) English Heritage.

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- (4) A pastoral church buildings scheme may make provision under section 70, with the consent of the Secretary of State or (as the case may be) English Heritage for restoring to use as a church or part of a church any building closed for regular public worship or part of such a building acquired by the Secretary of State or English Heritage under this section, and for any of the other matters specified in section 70 and that section shall accordingly apply to any such building or part and to any land acquired by the Secretary of State or English Heritage with it in like manner as it applies to a building closed for regular public worship vested in the Churches Conservation Trust and land so vested with it.
- (5) Before giving his or her consent under subsection (4) in relation to a building or part situated in England, the Secretary of State shall consult English Heritage.
- (6) Where a building closed for regular public worship or any part of such a building is acquired by the Secretary of State or English Heritage under this section, or an agreement for such an 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 or English Heritage (as the case may be) for the acquisition of the land by the Secretary of State or English Heritage (as the case may be) and for its maintenance with the building or part of the building and subsection (3) shall apply in relation to any land so acquired as it applies in relation to a building closed for regular public worship or part of such a building acquired under subsection (1).
- (7) English Heritage shall not enter into an agreement under subsection (6) unless—
  - (a) the land is situated in England, and
  - (b) the Secretary of State has consented.
- (8) An agreement under this section may provide for the acquisition and preservation by the Secretary of State or (as the case may be) English Heritage of any of the contents of the building closed for regular public worship or a part of such a building, and on such an acquisition section 76(1) shall apply to the contents as it applies to the contents of a building or part vested in the Churches Conservation Trust, but otherwise this Part and any pastoral (church buildings disposal) scheme or pastoral church buildings scheme relating to the contents shall cease to apply to the contents so acquired.
- (9) Where a building closed for regular public worship or part of such a building 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, English Heritage may by agreement with the Secretary of State undertake on his or her behalf the management and preservation of the building or part together with the other land (if any).
- (10) Where the Secretary of State has under subsection (6) acquired land situated in England for its maintenance with a building or part of such a building, English Heritage may undertake, in any agreement made under subsection (9) in relation to the building or part, the maintenance of the land on behalf of the Secretary of State.
- (11) Where the Secretary of State has under subsection (8) acquired for their preservation the contents of a building closed for regular public worship or part of such a building, English Heritage may undertake, in any agreement made under subsection (9) in relation to the building or part, the preservation of the contents on behalf of the Secretary of State.

**PART 7**

## MISSION

*Mission initiatives***80 Mission initiatives**

- (1) Where a person or group of persons is carrying out or is proposing or wishes to carry out an initiative in any diocese or any part of a diocese (in this Part referred to as a “mission initiative”) and—
  - (a) that person or group or any other person or body exercising ecclesiastical functions in the diocese requests the bishop of the diocese to make an order under this section, or
  - (b) the bishop, without any such request being made, considers that it would be appropriate to make an order under this section,then if the bishop is satisfied that the initiative would be likely, through fostering or developing a form of Christian community, to promote or further the mission of the Church or any aspect of it, he may make such an order.
- (2) An order under this section shall endorse the initiative and make provision for it in accordance with this section and sections 81 to 84 and shall be known as a bishop’s mission order.
- (3) Where any mission initiative is being or is to be carried out in more than one diocese the bishop’s mission order shall be made jointly by the bishop of each diocese affected by the order and subsection (1) shall have effect accordingly.
- (4) Any bishop’s mission order shall specify the objectives of the mission initiative and the areas in which it is being or is to be carried out and specify a person or persons or a group of persons who or which is or are to lead the mission initiative and be responsible to the bishop or bishops, as the case may be, for the conduct of it (in this section and sections 81 to 84 referred to as the “leader” or “leaders”) and the role of the leader or leaders and the bishop or bishops shall make such provision in the order as he thinks fit or they think fit for the administration of the Sacraments in accordance with the enactments and other laws relating thereto.
- (5) Any bishop’s mission order may include provision—
  - (a) for participation in a local ecumenical project (commonly known as a “local ecumenical partnership”),
  - (b) for other ecumenical co-operation with other Churches, and
  - (c) for collaboration with any religious organisations,and in this section and sections 81 to 83 any provision mentioned in this subsection is referred to as a “co-operation provision”.
- (6) Before making any bishop’s mission order the bishop or bishops, as the case may be, shall—
  - (a) consult such other Churches and religious organisations as he thinks fit or they think fit,
  - (b) consult any person or group of persons who or which appears to him or them to have a significant interest in or to be likely to be significantly affected by

- the order, including any body which he or they consider would adequately represent the interests of any such person or group,
- (c) consult the mission and pastoral committee in the diocese or each diocese affected by the order, and
  - (d) obtain the consent of the proposed leader or leaders.
- (7) For the purposes of subsection (6)(b), the following shall be deemed to have an interest in the order—
- (a) any person having or sharing the cure of souls in the area of any benefice affected by the order, and
  - (b) any other person or body, including a parochial church council or registered patron, who may have an interest in the cure of souls in any such area,
- and in considering whether a person or body has a significant interest in or would be likely to be significantly affected by the order, the bishop or bishops shall have regard to the objectives of the initiative endorsed by the order and any other circumstances which he or they think relevant.
- (8) Without prejudice to subsection (6), where it is proposed to include a co-operation provision in a bishop's mission order, the bishop or bishops, as the case may be, shall, as well as carrying out such consultation as is referred to in that subsection, consult the appropriate authority of each Church or religious organisation which is to participate in the local ecumenical project, or which is otherwise concerned.
- (9) The bishop or bishops, as the case may be, may authorise a person or body to carry out the consultation referred to in subsections (6) and (8) on his or their behalf.
- (10) No person may officiate in any place in accordance with a bishop's mission order unless—
- (a) if that person is ordained as a priest or deacon, he or she has received authority from the bishop by virtue of being instituted to a benefice or licensed by the bishop to serve or having written permission to officiate in any diocese affected by the order or may, otherwise, under any Canon of the Church of England, officiate in that place without the authority of the bishop, or
  - (b) if that person is a deaconess, reader or lay worker, he or she is authorised, under any Canon, to do so.
- (11) Subject to subsection (10), any bishop's mission order may include provision authorising a minister to exercise his or her ministry in any place for the purposes of or in connection with the mission initiative in any manner specified in the order and, where he or she is not the minister who has the cure of souls in that place, without obtaining the permission of the minister who has that cure but, before including any such provision, the bishop or bishops shall consult—
- (a) if the order affects one parish only, the incumbent or priest in charge of that parish,
  - (b) subject to paragraphs (c) to (e) below, if the order affects more than one parish in a diocese, either the incumbents or priests in charge of those parishes or the House of Clergy of the deanery synod of the deanery in which the parishes are situated, as the bishop or bishops thinks or think fit,
  - (c) if the order affects all the parishes situated in a deanery, the House of Clergy of the deanery synod of that deanery,
  - (d) if the order affects parishes situated in more than one deanery, the House of Clergy of the deanery synod of each deanery affected or the House of Clergy

- of the diocesan synod of the diocese in which the parishes are situated, as the bishop or bishops thinks fit or think fit, and
- (e) if the order affects parishes situated in more than one diocese, the House of Clergy of the deanery synod of each deanery affected or the House of Clergy of the diocesan synod of each diocese affected, as the bishop or bishops thinks fit or think fit.
- (12) Any alms collected in the course of or in connection with an office or service performed in accordance with the order shall be disposed of in such manner as the minister performing the office or service may, subject to the direction of the bishop or bishops of the dioceses affected, determine.
- (13) Subject to subsection (10), any bishop's mission order may include provision authorising the performance of divine service, including Holy Communion, if so specified, in any building other than a parish church, parish centre of worship or place licensed for public worship in accordance with section 43(1) or a guild church, with the consent of the person who has the general management and control of the building.
- (14) Subject to subsection (10), any bishop's mission order may include provision authorising the performance of any divine service, including Holy Communion, in any parish church or place excluded from subsection (13) above with the consent of any minister having the cure of souls in that place.
- (15) Nothing in this section shall authorise any act done in contravention of a resolution passed under section 3(1) or 4(1) of the Priests (Ordination of Women) Measure 1993 (1993 No. 2).

## **81 Visitors**

- (1) A bishop's mission order shall designate a person, to be known as "the Visitor", who shall, on behalf of the bishop or bishops—
- (a) exercise oversight of the mission initiative and advise and encourage and, so far as practicable, provide support for it;
  - (b) review the mission initiative at intervals of not more than eighteen months or such lesser period as may be specified in the bishop's mission order and report to the bishop or bishops, as the case may be on the outcome of the reviews and send copies of the reports to the leader or leaders;
  - (c) report regularly to the bishop or bishops on the discharge of his or her duties and the progress of the mission initiative and send copies of the reports to the leader or leaders;
  - (d) at the end of the period of the bishop's mission order report to the bishop or bishops and send copies of the report to the leader or leaders and the mission and pastoral committee or committees;
  - (e) ensure that proper accounting records of the mission initiative are kept and accounts are prepared annually which show a true and fair view of all activities carried out in accordance with professional practice and standards; and
  - (f) advise the bishop or bishops and the leader or leaders on initiating and developing appropriate methods of governance of the mission initiative.
- (2) The leader or leaders shall—
- (a) consult the Visitor regularly about the general direction and development of the mission initiative, and



- (b) supply the Visitor with a copy of the annual accounts and any other information which the Visitor requires in order to carry out his or her functions.
- (3) Any person may draw to the Visitor's attention any matter relating to the mission initiative of which he or she thinks the Visitor should be aware.

## **82 Supplementary provisions**

- (1) A bishop's mission order may contain such supplementary provisions as the bishop or bishops, as the case may be, thinks or think fit and, if he or they thinks or think fit, he or they may include any such provisions in a supplementary instrument being provisions which, in his or their opinion, would further the objectives of the mission initiative.
- (2) Without prejudice to the generality of subsection (1) the bishop's mission order or supplementary instrument may make provision—
  - (a) for the stipends, remuneration, pensions or housing and other expenses of any persons exercising functions under the bishop's mission order;
  - (b) for any other offices or functions which such persons may hold or perform in conjunction with their functions under the order;
  - (c) for the replacement, where necessary, of any persons or bodies exercising functions under the order by other persons or bodies;
  - (d) for the organisation, governance and financing of the mission initiative including the management and control of any property used by those exercising functions under the order;
  - (e) for any measures required for the protection of children, young persons and other vulnerable persons and for health and safety and insurance;
  - (f) for relationships between persons involved with the mission initiative and persons who have the cure of souls within any area to which the bishop's mission order relates and with other churches, institutions and religious organisations; and
  - (g) after consulting the Visitor and such other persons or body as the bishop or bishops thinks or think fit, for representation of persons to whom the order relates on such deanery synod as he thinks or they think fit in accordance with a scheme made by the diocesan synod of the diocese in which the deanery is situated.
- (3) Where a co-operation provision is included or is to be included in a bishop's mission order, and without prejudice to section 80(6) above, the bishop or bishops, as the case may be, and the Visitor shall discharge all their functions under this Part after consultation with the appropriate authority of each Church or religious organisation which is to participate in the local ecumenical project, or which is otherwise concerned.
- (4) The bishop or bishops may vary any bishop's mission order or any supplementary instrument by a further order or instrument but, in the case of an order, shall not do so except after consulting the mission and pastoral committee or committees of the diocese or dioceses concerned and the leader or leaders, the Visitor, any relevant person having the cure of souls and any other person or body which he thinks or they think fit and section 80(8) or (11) or subsection (3) shall apply if any variation relates to any such provision as is referred to in any of those subsections.

- (5) The bishop or bishops may revoke any bishop's mission order and any supplementary instrument by a further order or instrument but, in the case of an order, shall not do so without carrying out the like consultation as is referred to in subsection (4).
- (6) Any leader shall have the right to make written or oral representations (or both) to the mission and pastoral committee or committees in respect of any order varying or revoking a bishop's mission order and any such order may include provision in respect of the management or disposal of property and of any other matters for which it is, in the opinion of the bishop or bishops, expedient to make provision.
- (7) Any bishop's mission order or supplementary instrument shall specify its duration, but, subject to section 83, no such order, taken together with any order varying it, shall extend beyond the period of five years from the date on which it is made.
- (8) Any order under section 80 or this section and any instrument under this section shall be signed by the bishop or bishops, as the case may be, or by a person authorised by him or them and shall also (except in the case of an order or instrument varying or revoking an order or instrument) be signed by the leader or leaders and contain a declaration by the leader or leaders of acceptance of the terms of the order or instrument.
- (9) In section 80 "ecumenical co-operation" means co-operation in matters affecting the ministry, congregational life or buildings of the Churches concerned and "local ecumenical project" has the same meaning as in the Church of England (Ecumenical Relations) Measure 1988 (1988 No. 3).

### **83 Review of duration of mission initiatives and further provisions**

- (1) Without prejudice to section 81(1)(b), the Visitor shall conduct a review of the mission initiative not less than six months before the expiry of the bishop's mission order under section 82(7), in consultation with the leader or leaders, the mission and pastoral committee of each diocese affected by the order and such other persons or organisations referred to in section 80(6) as the Visitor thinks fit and, where relevant, any such authority as is referred to in section 82(3).
- (2) The Visitor shall report to the bishop or bishops on the outcome of the review conducted under subsection (1) and the report shall contain the Visitor's recommendations on whether the mission initiative should continue and, if so, whether the bishop's mission order should be renewed and, if it should, on the period (not exceeding five years) of the renewal or, if not, how the mission initiative or its objectives should be continued.
- (3) The Visitor's report may contain such other recommendations or comments as the Visitor may think fit and copies of the report shall be sent to such other persons or bodies as the bishop or bishops may direct.
- (4) The bishop or bishops, after considering the report, may, if he or they consider that the mission initiative should continue, after consulting the mission and pastoral committee or committees and after carrying out such further consultation as he thinks or they think fit make a further bishop's mission order continuing the mission initiative and, if he thinks or they think fit, a further supplementary instrument.
- (5) The further order and supplementary instrument if any, shall specify the duration of the order and instrument and the order shall continue in force—
  - (a) for a period of up to five years; or

- (b) for a period of up to eighteen months so as to enable arrangements to be made for the mission initiative or its objectives to be continued by other means.
- (6) If the bishop or bishops make a further order under subsection (4) the Visitor shall be under the like duty to review and report on the mission initiative as is conferred on the Visitor by subsections (1), (2) and (3) and section 81(1)(b) shall not apply.
- (7) The bishop or bishops, after considering the report referred to in subsection (6), may, if he or they consider—
  - (a) that the mission initiative should continue, and
  - (b) that there are no other suitable means by which the mission initiative or its objectives can be achieved,after consulting the mission and pastoral committee or committees, make a further mission order and, if he thinks or they think fit, a further supplementary instrument.
- (8) Where a bishop's mission order contains or is to contain a provision for participation in a local ecumenical project the order or supplementary instrument may, with the agreement of the appropriate authority of each Church which is to participate in the ecumenical project, provide that the reports referred to in subsections (2) and (6) and the functions of the bishop or bishops under subsections (3), (4), (5), (7), (9), (10), (11) and (12) shall, in the case of the reports, be made to and, in the case of the functions, be performed by, or on behalf of, a body of persons which shall include the bishop or bishops and one or more representatives of the appropriate authorities mentioned above and may include persons otherwise representing the Church of England and any functions of the Visitor which, under section 81 or this section, are performed on behalf of the bishop or bishops shall be performed, instead, on behalf of that body.
- (9) Any order or supplementary instrument made under subsection (7) shall continue without limit of time, unless revoked or varied by a further order or instrument.
- (10) Any order or supplementary instrument made under this section shall, so far as appropriate, make provision for any of the matters mentioned in sections 80 to 82 and those sections shall apply accordingly.
- (11) Any order or supplementary instrument may be varied or revoked by a further order or instrument and section 82(4), (5) and (6) shall apply in relation to any such order or instrument as it applies to orders and instruments made under that section.
- (12) Any order or instrument made under this section shall be signed in like manner as is provided by section 82(8) and shall include the like requirement to contain a declaration of acceptance by the leader or leaders.

## **84 Code of Practice**

- (1) The House of Bishops shall draw up and promulgate guidance in a Code of Practice as to the exercise of the functions conferred under this Part.
- (2) The House of Bishops may amend or replace any Code issued under subsection (1) by a further Code of Practice issued in accordance with this section.
- (3) A Code of Practice shall be laid before the General Synod and shall not come into force until approved by the General Synod, whether with or without amendment.
- (4) Where the Business Committee of the General Synod determines that a Code of Practice does 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 or she wishes the Code to be debated, or
- (b) notice is so given by any such member that he or she wishes to move an amendment to the Code,

the Code shall, for the purposes of subsection (3), be deemed to have been approved by the General Synod without amendment.

- (5) The bishop or bishops who make any order or instrument under this Part and any leader, any Visitor and any mission and pastoral committee shall be under a duty to have regard to any Code of Practice issued under this section.

## PART 8

### MISCELLANEOUS AND GENERAL

#### *Restrictions on presentation*

#### **85 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 mission and pastoral committee, and after consultation with—
  - (a) the 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 (in this Measure referred to as the “suspension period”), the registered patron shall not exercise his right of presentation without the consent of the mission and pastoral committee and (if he is not the registered patron) of the bishop; and thereupon that right shall only be exercised in accordance with the notice during the suspension period.

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

- (2) The power conferred by subsection (1) 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 or body to be consulted or his or her or its representative, that person or body shall be advised that he or she or it 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 purposes of enabling those present to consult with the bishop or his representative about the giving of the 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 mission and pastoral committee, terminating the suspension 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 period;
- and the termination shall, in the cases mentioned in paragraphs (a) and (b), take effect on such day, not being less than fourteen days after the date of the notice, as may be specified in the notice, and, in the cases mentioned in paragraph (c), 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 that power may be exercised from time to time before the expiration of any extension of a suspension period.
- (6) After the expiration of a suspension period, the bishop may, 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), declare a new suspension period in relation to the vacancy and, if he does so, subsections (1), (3), (4) and (5) shall apply in relation to any notice given and any suspension period declared under this subsection as they apply to a notice given and a suspension period declared under subsection (1).
- (7) A notice given by the bishop under this section shall be given to—
- (a) the designated officer within the meaning of section 7(5) of the Patronage (Benefices) Measure 1986,
  - (b) the mission and pastoral committee,
  - (c) the registered patron of the benefice, unless the only registered patron is the bishop,
  - (d) both chairmen of the deanery synod of the deanery concerned,
  - (e) the churchwardens of the parish or each of the parishes concerned, and
  - (f) the sequestrators;
- and a copy of the notice shall be filed in the diocesan registry.
- (8) The designated officer shall, not earlier than six months, and not later than three months, before any suspension period declared under this section is due to expire, other than a suspension period which comes to an end before the date on which it would otherwise expire under subsection (4), give notice to the bishop and, unless the designated officer is also the secretary of the mission and pastoral committee, to that secretary, of the date on which the suspension period is due to expire.
- (9) The churchwardens to whom any such notice 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.

**86 During suspension period sequestration of profits, appointment of priest in charge and management of property**

- (1) Where the bishop has declared a suspension period in respect of any benefice under section 85, he shall during that period sequester the profits of the benefice.
- (2) The sequestrators 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 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 of the property during any suspension period.

**87 Restrictions on presentation pending the making of pastoral schemes and orders**

- (1) Where any proposals are approved under section 7(1) or 22(1) or where the bishop is of the opinion under section 17(1) that proposals should be implemented and the proposals contain recommendations for any of the matters specified in sections 31 and 32 and 34 to 36, and any benefice which would be affected if the recommendations were implemented is vacant on the date on which the registered patron thereof is sent a copy of the proposals under section 7(2), 17(2) or 22(2) or becomes vacant thereafter, the 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 mission and pastoral committee and (if he is not the registered 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;
  - (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;
  - (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:

Provided that, where an appeal has been brought against a draft scheme which implements the relevant recommendations, and Her Majesty in Council has not determined the appeal under section 12(4) or (6) within the period referred to in paragraph (d), that paragraph shall have effect as if that period had been extended to the date on which the decision on the appeal is delivered.

- (2) Where the bishop has given directions to the mission and pastoral committee under section 3(3) to consider or has been notified under that section that the committee intend to consider in relation to any benefices, any of the matters specified in sections 31 and 32 and 34 to 36, he may, upon a vacancy or impending vacancy in any of those benefices, or where a joint boundary committee has been appointed under section 16 upon a vacancy or impending vacancy in any benefice which might be affected by the exercise of the powers of that committee under sections 16 and 50 as limited (if at all) by instrument sealed by the bishops of the dioceses concerned, notify—
- (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 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); and the provisions of section 7 of the Patronage (Benefices) Measure 1986 shall, subject to the modifications made by section 88 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 notice unless within that period proposals are approved under section 7 or section 22(1) or where the bishop is of the opinion under section 17(1) that proposals should be implemented containing recommendations for any of the matters specified in subsection (1) or (2) which would affect the benefice concerned, in which case the restriction shall continue until 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 notice or, where the proviso to subsection (1) applies, the date on which the decision of Her Majesty in Council on the appeal is delivered.
- (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 85 and 86 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.

## **88 Modification of Patronage (Benefices) Measure 1986 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 38 or 87 comes into force in respect of any benefice—

- (a) save as provided in this section no notice under 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, but if a further suspension period is declared, the benefice shall no longer be deemed to be vacant; and

- (d) as soon as practicable after he becomes aware of the vacancy, the bishop shall give notice of that fact to the designated officer (within the meaning of section 7(5) of the Patronage (Benefices) Measure 1986 and, unless he is the designated officer, to the registrar of the diocese and section 7(4) of that Measure shall apply as it applies to a notice under section 7(1) or (2) so however that if the suspension period will come to an end as a result of a notice given by the bishop under section 85(4) of this Measure the notice referred to in this section may be given by the bishop at the same time as the notice under section 85(4) and in any other case the notice 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.

## **89 Suspension of new rights of patronage**

Where any proposals approved under section 7 or 22 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 87(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 approval of the recommendations and such one of those events as first occurs.

### *Miscellaneous provisions*

## **90 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 76.

## **91 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 the induction he or she 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 of the induction 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 the induction the incumbent shall be deemed to have been inducted in all of the parish churches in those areas and to have been admitted to each of those benefices, and no further fees in respect of the induction shall be payable.

## **92 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 Commission or the Court, grant the buildings or land to the diocesan board of finance under section 14(1) of the [New Parishes Measure 1943 \(6 & 7 Geo. 6 No. 1\)](#) or make a declaration under section 14(3B) of that Measure for any of the purposes mentioned in section 13 of that Measure, being purposes falling within the purposes for which the buildings or land are or is held before the grant or declaration.
- (2) It is hereby declared for the removal of doubt that the powers conferred by section 14 of that Measure extend to the grant by the incumbent of a benefice or any part of the land held with the parsonage, but no such grant shall be made without the consent of the diocesan parsonages board.

### *Administrative provisions*

## **93 Diocesan pastoral accounts**

- (1) The diocesan board of finance of each diocese shall hold an account for each diocese to be called the diocesan pastoral account and shall transfer to the account—
  - (a) any moneys which are payable to the account under any provisions of this Measure or any scheme or order made under it;
  - (b) such other moneys as the bishop and the diocesan board of finance for the diocese determine should be credited to the account not being moneys for the application or disposal of which provision is made by or under any other enactment.
- (2) 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 in it 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.
- (3) Every diocesan board of finance shall lay a copy of the account prepared under this section before the diocesan synod.

**94 Payment of expenses from diocesan pastoral accounts and application of moneys**

- (1) Expenses incurred by or on behalf of, or under the authority or direction of, the bishop of any diocese or any mission and pastoral committee or the Commissioners for the purposes of this Measure or any scheme or order made shall be paid out of the moneys standing to the credit of the diocesan pastoral account so far as those moneys suffice, but any 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 any such salaries or wages.
- (2) Where any 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.
- (3) 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.
- (4) 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 this section 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 building closed for regular public worship vested in the board pending the coming into operation of arrangements under a pastoral (church buildings disposal) 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 those purposes or for such of those purposes as the board may specify; or
  - (c) transfer those moneys to the capital or income account of the diocesan stipends fund; or
  - (d) transfer those moneys to one or more other accounts or funds held by the board or apply or transfer them partly to such other accounts or funds and partly as provided in paragraphs (a) to (c).

**95 Temporary maintenance account**

- (1) The Commissioners shall hold an account to be called the temporary maintenance account and shall transfer to it any moneys which are payable to that account under section 64.
- (2) Any moneys transferred under subsection (1) shall be held by the Commissioners as part of their corporate property and the Commissioners shall credit the 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.
- (3) The Commissioners may apply moneys standing to the credit of the temporary maintenance account by way of grant or loan to the care, insurance, repair and maintenance of any building closed for regular public worship vested in—

- (a) the Commissioners or a diocesan board of finance pending the making or the coming into operation of arrangements under a pastoral (church buildings disposal) scheme;
- (b) a diocesan board of finance pending the making or the coming into operation of arrangements under a new or amended pastoral (church buildings disposal) scheme;
- (c) the Commissioners or a diocesan board of finance pending the making or the coming into operation of arrangements under a pastoral church buildings scheme to which section 58 or 59 applies.

**96 Power of Commissioners to determine boundaries**

- (1) Where by virtue of this Measure or any scheme or order made under it any land is vested in the Commissioners, the diocesan board of finance, the Churches Conservation Trust or an incumbent of a benefice, the Commissioners may determine the boundaries of the land by an instrument under their seal, and the determination shall for all purposes be binding on any of the 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.

**97 Power of Commissioners to determine questions relating to patronage**

- (1) Where it is necessary for the purposes of this Measure or any scheme or order made under it 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 those purposes.
- (2) The provisions of subsection (1) 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 or she is outside the United Kingdom and has not within the United Kingdom any representative authorised to act for him or her; and
  - (b) either that no address at which letters are likely to be delivered to him or her is known, or that a letter asking him or her to nominate such a representative has been written to him or her at his or her 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 46 or paragraph 1 of Schedule 3 it should be disregarded, they may determine his or her interest to be negligible and thereupon he or she may be treated for those purposes as having no interest in the patronage of the benefice.

**98 Powers of Commissioners to seek information and give advice**

- (1) The Commissioners may at any time seek information from, and give advice to a mission and pastoral committee or a diocesan board of finance on any matter

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concerning its functions under this or any other Measure, and the committee or board concerned shall provide any such information and have regard to any such advice.

- (2) The advice referred to in subsection (1) may, if the Commissioners think fit, be contained in a code or codes of practice.

## **99 Assistant curates**

- (1) The bishop of a diocese may by an instrument under his hand direct that any office of assistant curate in his diocese may be described in such terms as may be specified in the instrument and, where an instrument is in force under this section, any licence issued to a person to exercise the office shall refer to the assistant curate by that description and any reference in any enactment, Canon or other instrument to an assistant curate shall be construed accordingly.
- (2) Before issuing an instrument under this section the bishop shall consult the incumbent or priest in charge of the benefice or, in the case of a team ministry, the team chapter of the team ministry in which the assistant curate exercises or is to exercise the office.
- (3) An instrument under this section may be varied or revoked by a further instrument after carrying out the like consultation as is referred to in subsection (2) and after consulting the assistant curate (if any) exercising the office.
- (4) On making an instrument under this section the bishop shall send a copy to the registrar of the diocese, and the registrar shall file it in the diocesan registry.
- (5) When a bishop issues a licence to an assistant curate to exercise his or her office in any benefice the bishop, after carrying out the like consultation as is referred to in subsection (2), may, in the licence, assign to the assistant curate—
- (a) a special cure of souls in a part of the area of the benefice, whether or not with responsibility for a particular church, or
  - (b) a special responsibility for a particular pastoral function,
- but any such provision is without prejudice to—
- (i) the general duties and responsibilities of the incumbent or priest in charge, or
  - (ii) in the case of an assistant curate who exercises or is to exercise the office in a team ministry, any duties or responsibilities under section 34, of any member of the team chapter or any other member of the team, including any vicar appointed to act as rector under subsection (16) of that section.

## **100 Application to benefices in the patronage of the Crown or Duke of Cornwall**

- (1) Nothing in the 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 the 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.
- (2) Any consent given under subsection (1) and, if by virtue of any such consent any provisions of this Measure or any scheme or order made under it 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) any consent under subsection (1) in respect of a benefice or benefices the patronage of which is vested in or exercisable by Her Majesty in right of Her Crown and any consent, approval or other thing required to be given or done by or to the patron of any such benefice may be given or done by or to the Prime Minister;
- (b) any consent under subsection (1) 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 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;
- (c) any consent under subsection (1) 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 to be given or done by or to the patron of any such benefices, may be given or done by or to any person authorised to act on behalf of the Duke of Cornwall under the [Duchy of Cornwall Management Act 1863 \(26 & 27 Vict. c. 49\)](#), including any persons having authority under section 38 or 39 of that Act.

## **101 Provision 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 documents 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 her, or by leaving it at his or her 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 Interpretation Act [1978 \(c. 30\)](#), 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 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 or her proper address for those purposes shall be that address.

- (5) Where any document is required to be sent to the Commissioners it shall be addressed to the Secretary of the Commissioners.
- (6) 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.

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## **102 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 under it to be given or done by or to the registered patron of the benefice may be given or done by or to the guardian of the minor.

## **103 Provisions where there is no parochial church council, incumbent, etc.**

- (1) Where at the material time a parish (other than a parish of a parish church cathedral) 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.
- (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*

## **104 Pluralities not be authorised except under this 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 preferment 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 him or her holding offices in contravention of this section, he or she shall, on his or her admission to the benefice or preferment, be deemed to vacate the office or offices previously held by him or her.
- (5) In this section—
  - “benefice” includes the office of a vicar in a team ministry;
  - “cathedral preferment” means the office of dean, residentiary canon or stipendiary canon in any cathedral;

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“cathedral statutes” includes a charter or local Act relating to the cathedral;  
“office” means a benefice or cathedral preferment.

## **105 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 104) 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, except in sections 21(2)(g) and 62(4), 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.

(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 under it shall be taken as applying to or in any way affecting any parish constituted otherwise than for ecclesiastical purposes.

## **106 General interpretation**

(1) In this Measure, unless the context otherwise requires, the following expressions have the meanings 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 104) the holder of a cathedral preferment and “admit” shall be construed accordingly;

“the bishop” means the bishop of the diocese concerned;

“charity” has the meaning ascribed to it by section 78(2) of the Charities Act 2006 (c. 50);

“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

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building used or intended to be used for the purpose of such public worship as aforesaid;

“the Church Buildings Council” means the body of that name constituted in accordance with section 54 of the Dioceses, Pastoral and Mission Measure 2007 (No. 1);

“the Commissioners” means the Church Commissioners;

“diocesan board of finance” means in relation to a diocese, the board of that name constituted under the [Diocesan Boards of Finance Measure 1925 \(15 & 16 Geo. 5 No. 3\)](#) for that diocese;

“diocesan pastoral account” means, in relation to a diocese, the account referred to in section 93 for that diocese;

“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 section 2 of the Dioceses, Pastoral and Mission Measure 2007;

“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;

“English Heritage” means the Historic Buildings and Monuments Commission for England known as English Heritage;

“functions” includes powers and duties;

“funding period” means a period determined as such by an order made under section 65(1);

“interested parties” has the meanings assigned by section 6 or 21, as the case may be;

“listed building” and “conservation area” have the meanings respectively assigned to them by sections 1(5) and 69(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9);

“local planning authority” has the meaning ascribed to it by section 1 of the Town and Country Planning Act 1990 (c. 8);

“mission” means the whole mission of the Church of England, pastoral, evangelistic, social and ecumenical;

“mission and pastoral committee” means the committee appointed in accordance with section 2;

“National Amenity Societies” means the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings, The Twentieth Century Society and the Victorian Society and such other body as may from time to time be designated by the Dean of the Arches and Auditor as a national amenity society for the purposes of this Measure;

“the 1983 Measure” means the Pastoral Measure 1983 (No. 1);

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

“pastoral order” means an order made by the bishop under section 11;



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“pastoral scheme” means a scheme made by the Commissioners under Part 3 or 4, and includes (except where it is expressly or by necessary implication excluded) any such scheme made in pursuance of proposals by a joint boundary committee appointed under section 16 and a pastoral church buildings scheme;

“pastoral church buildings scheme” means a pastoral scheme which contains a declaration of closure for regular public worship;

pastoral (church buildings disposal) scheme” has the meaning assigned to it by section 60;

“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:

“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 “provided” shall be construed accordingly;

“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 Sharing of Church Buildings Act 1969;

“suspension period” has the meaning assigned to it by section 85;

“the temporary maintenance account” means the account referred to in section 95.

- (2) 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 mission and pastoral 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.
- (3) 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 Synodical Government Measure 1969 (1969 No. 2).
- (4) Any reference in this Measure to the demolition of a building shall be construed as including a reference to the demolition of part thereof.

**107 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 to any such development.

**108 Provisions as to guild churches**

- (1) A pastoral church buildings scheme may make a declaration of closure for regular public worship under section 42 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 6 of this Measure, either by the pastoral church buildings scheme, in accordance with section 59 but not section 58, or by a pastoral (church buildings disposal) 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 church buildings scheme or pastoral (church buildings disposal) scheme making any such provision comes into operation, the Acts mentioned in subsection (1) 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 44 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 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 sections 9(3) and 24(3) 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) Subject to subsections (1) to (5), nothing in this Measure or in any scheme or order made under it shall apply to or affect any guild church.

**109 Churches etc. affected by private and local Acts**

- (1) Subject to subsection (4), the provisions of this Measure, and in particular those relating to churches closed for regular public worship, shall apply to—
  - (a) churches affected by any private or local Act passed before 1st April 1969;
  - (b) land comprising the sites of any such churches or annexed or belonging to any 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 1st 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 mission and 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 of it, 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 58.

- (3) If it appears to the Commissioners that a proposed pastoral or pastoral (church buildings disposal) 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 sections 9(1) and 24(1) and he or she shall thereafter be deemed to be an interested party in relation to that scheme, and, in the case of a pastoral (church buildings disposal) scheme, they shall serve a copy of the draft scheme on that person under section 62(4).

## **110 Transitional provisions**

The transitional provisions in Schedule 8 shall have effect.

## **111 Repeals**

Subject to the provisions of Schedule 8, the provisions specified in Schedule 9 are hereby repealed to the extent specified in column 2 of that Schedule.

## **112 Short title, extent and commencement**

- (1) 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 of them, in accordance with those Measures and, if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, shall

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extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument.

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 New Parishes Measure 1943, in their application to the Channel Islands or either of them.

- (2) The power to apply the provisions of this Measure to the Channel Islands shall not apply to sections 3 and 31 as far as they relate to sharing agreements.
- (3) 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.
- (4) This Measure may be cited as the Mission and Pastoral Measure 2011.

## SCHEDULES

### SCHEDULE 1

Section 2

#### CONSTITUTION AND PROCEDURE OF THE MISSION AND PASTORAL COMMITTEE

- 1 There shall be a person to be known as “the Chair”.
- 2 The bishop, if he so wishes, may be a member and may also be the Chair.
- 3 Unless the bishop is the Chair, the Chair shall be appointed by the bishop.
- 4 All archdeacons in the diocese shall be members or, if there is only one archdeacon, that archdeacon shall be a member.
- 5 Subject to paragraphs 1 to 4, the members of the committee shall be such number of persons and appointed or elected in such manner and for such period of office as the diocesan synod shall determine, but so as to secure that the number of members who are of the clergy and the number of members who are of the laity are, as nearly as possible, the same.
- 6 The written constitution of the committee shall provide for a quorum.
- 7 Subject to paragraph 6, the committee may act notwithstanding any vacancy in the membership or any defect in its composition.
- 8 The committee shall have power to appoint sub-committees and to appoint to them persons who are not members of the committee but the constitution may prescribe the minimum numbers or proportion of members of a sub-committee who are members of the committee.
- 9 The committee may delegate any of its functions to a sub-committee except the duty under section 6(5) or 21(4) to afford opportunities to incumbents of benefices and vicars in team ministries and persons subject to Common Tenure to meet the committee itself and its functions under Schedule 4.
- 10 The committee and any sub-committee shall have power to appoint persons who have appropriate expertise whether or not as members of another body to provide advice on any of their functions.
- 11 The committee shall have power to make provision for the appointment of a secretary to the committee and any sub-committee.
- 12 Subject to the preceding provisions of this Schedule and to any directions given by the diocesan synod, the committee shall have power to regulate its own procedure and that of any sub-committee and to provide for any other matters which it thinks fit.

## SCHEDULE 2

## Section 12

### 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 12 shall on or before the date specified in the notice served on him or her under section 11(2) send written notice of his or her intention to the Registrar of the Privy Council. The notice shall be sent by registered post or recorded delivery service and a copy 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 12, 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 Registrar of the Privy Council is satisfied that a notice has been given by a person who has duly made representations with respect to the scheme in question he or she shall so notify the applicant and the Commissioners. If he or she is not so satisfied he or she 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 12 receives a notification under paragraph 3 from the Registrar he or she shall lodge in the registry of the Privy Council five copies of his or her application for leave, and the application shall—
- (a) state the grounds of his or her appeal including a succinct statement of any reasons why he or she 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 leave is granted, he or she intends to rely in prosecuting his or her 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 11(2).
- 5 The Judicial Committee of the Privy Council shall consider an application for leave, and if it grants leave, the Registrar shall forthwith register the appeal and notify the applicant and the Commissioners that he or she 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 or her 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 12. 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 11(2) and any documents in his or her 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 of it and of the annexed documents on the appellant.

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- 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 12 fails to lodge his or her petition of appeal within a period of three months beginning with the date on which he or she received a notification under paragraph 5 or such extended period as the Registrar may allow, the Registrar 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 or her solicitor and to the Commissioners.
- 12 All bills of costs under any order of the Judicial Committee on such appeal shall be referred to the Registrar for taxation, and 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 12 as they consider just and expedient.

### SCHEDULE 3

Sections 34, 35, 36, 38, 41, 43, 45, 46, and

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#### SUPPLEMENTARY PROVISIONS RELATING 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 scheme 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) 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 exercises its right of presentation or the bishop exercises his right of collation thereunder it 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 chair the board and be known as the “Chair”, subject

to paragraph 2(2), the rector, every vicar in a team ministry, any deacon authorised to serve in a team ministry, any person having special responsibility for pastoral care under section 34(8) 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), the 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 his or her or their behalf being a person who has made the declaration of membership within the meaning of the Patronage (Benefices) Measure 1986.
- (7) Subject to sub-paragraphs (8) and (9) and paragraphs 2(3) and (4), a scheme by which a patronage board is constituted may provide that any members 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 Chair, 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.
- (8) Every vicar in a team ministry, any deacon authorised to serve in a team ministry and any person having a special responsibility for pastoral care under section 34(8) 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 majority) as may be present at the meeting in question.
- (9) Every person referred to in sub-paragraph (8) other than a person who wishes to be considered for presentation shall be entitled to attend at meetings of the diocesan board of patronage at which the person to be presented as rector of the team ministry is considered and chosen and shall be entitled to vote as provided in that sub-paragraph.
- (10) A patronage board constituted by the scheme shall be a body corporate for the purpose of holding the rights of patronage conferred upon it, and shall have a seal, and shall have power to regulate its own procedure.
- (11) If the scheme provides for the 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.
- (12) 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 the rights



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are vested in a person in right of his or her office or only for life or a term of years, be transferable inter vivos and on death, but in no case shall the rights be saleable and they shall not be deemed to be rights in land.

- (13) Persons having the rights mentioned in sub-paragraph (12) shall furnish to the registrar of the diocese particulars of their rights including particulars of any transfer or devolution of the rights, and if they fail to do so their rights may be disregarded for the purposes of this paragraph (including sub-paragraph (14)).
  - (14) Where a pastoral scheme terminates a team ministry, the scheme shall, so far as practicable and having regard to pastoral considerations and to sub-paragraph (13), 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 of the benefice.
  - (15) Sub-paragraphs (3) to (13) shall apply in relation to a pastoral scheme or order altering a team ministry under section 36(1)(c) or 51(e)(iv) as they apply in relation to a pastoral scheme establishing a team ministry.
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- (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 the scheme makes such a provision, the rector of the team ministry shall be a member of the patronage board for the purpose only of meetings at which the person to be appointed a vicar in that ministry is considered and chosen and shall be entitled to attend and vote at meetings of the diocesan board of patronage for that purpose except where he or she wishes to be considered for presentation.
  - (3) Every vicar in a team ministry, any deacon authorised to serve in a team ministry and any person having a special responsibility for pastoral care under section 34(8) 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 majority) as may be present at the meeting in question.
  - (4) Every person referred to in sub-paragraph (3) other than a person who wishes to be considered for appointment shall be entitled to attend at meetings of the diocesan board of patronage at which the person to be chosen as vicar in a team ministry is considered and chosen and shall be entitled to vote as provided in that sub-paragraph.
  - (5) Where the scheme does not provide as mentioned in sub-paragraph (1), 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.
  - (6) 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 34(7)(a) to the vicar, any district council concerned.

(7) (a)

The body or other persons who are entitled to choose a person to be a vicar in a team ministry shall not make 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 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 or her 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 shall notify in writing the body or other persons of the grounds on which the refusal is made.
- (d) Where approval of an offer is refused under this sub-paragraph, the 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 body or other persons to make the offer in question, that offer may be made accordingly.

(8) Subject to sub-paragraph (9), in sub-paragraph (7) 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.

(9) Where a team council has been established by a pastoral scheme or by a scheme made under the Church Representation Rules in respect of a benefice comprising more than one parish, the team council shall appoint two lay members to represent the council in connection with the selection of vicars in the team ministry and, in sub-paragraph (7), the words “parish representatives” shall be construed accordingly.

(10) Sub-paragraphs (2), (3), (4) and (6) to (9) shall apply in relation to a pastoral scheme or order altering a team ministry under section 36(1)(d) or 51(e)(iv) as they apply in relation to a pastoral scheme establishing a team ministry.

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 priest in charge in the group before he or she 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.

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 the 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 those Rules shall have effect accordingly:

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Provided that if the 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 Rules.

- (2) Where the scheme establishes a team ministry 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 each such church or place of worship is situated and for the constitution, Chair 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, and
  - (d) for the election of choice of deputy churchwardens for each such church or place of worship and for the functions of churchwarden of the parish which must be or may be delegated to the deputy churchwardens,

being provision 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 the 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 Chair, meetings and procedure of the team council, and
  - (c) 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 the 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 Chair, 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 the scheme or the bishop’s instrument by virtue of sub-paragraph (2), (3) or (4) shall cease to have effect at the expiration of the period of five years from the date of the establishment of the team ministry or group

ministry to which the scheme or instrument relates or such lesser period as may be specified in the scheme or instrument as the case may be, and that period may not be extended or renewed by a subsequent scheme or instrument of the bishop.

*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, transfers a parish from one benefice to another 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 mentioned in sub-paragraph (1), he or she 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 of the admission shall be payable;
- (b) in any other case section 91(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 or she shall, unless the bishop otherwise directs, be deemed to have been admitted to the other benefice or benefices, and no fees in respect of the admission shall be payable;
- (b) in any other case section 91(2) shall apply.
- (4) It shall not be necessary, by reason only of the substitution of another church for a parish church by the 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.

*General provisions as to vesting of property*

- 6 (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 or her 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 dean of a parish church cathedral, any such property as would have vested in the incumbent shall instead vest in the cathedral chapter.
- (2) Where by virtue of a pastoral scheme (other than a scheme to which sub-paragraph (1) 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

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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) Sub -paragraphs (1) to (3) shall have effect subject to any express provision of a pastoral scheme or order and, where applicable, to the provisions of paragraph 9 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 47(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 by the scheme or order and for securing the sums so apportioned on the respective parts of the property

#### *Loans*

- 7 (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 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, and the Commissioners may postpone that 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.

*Property transferred to diocesan board of finance*

- 8
- (1) Where any property is transferred under section 45 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, 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 under section 45 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 58 or a parsonage house or a house for any person declared by the bishop to be engaged in the cure of souls within the diocese, but, except in so far as the scheme or order may so provide, the net proceeds shall be paid into the capital account of the diocesan stipends fund or into the diocesan pastoral account, or partly into the one and partly into the other, as the diocesan board of finance may determine or as the scheme or order may provide.
  - (4) Notwithstanding sub-paragraphs (1) to (3), the diocesan board of finance may elect to take over and hold as part of their corporate property any property transferred to it 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 to the diocesan board of finance for use for diocesan or parochial purposes—
    - (a) the transfer shall, unless the scheme or order 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 trustee of any property to be used for parochial purposes.

*Church and parochial trusts*

- 9
- (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 or she 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 Commission, 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 mentioned in sub-paragraph (1) 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 a union) of such parish as may be specified by order of the Charity Commission, being a parish which incorporates part of the dissolved parish.
- (3) Where—
- (a) any property of a charity established for the purposes mentioned in sub-paragraph (2) 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 or an area comprising the whole or 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 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 34(8) the trusts of the charity or the constitution of the corporation shall have effect with the substitution for the incumbent of the benefice of that vicar or that member, as the case may be, but otherwise 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 power of the Charity Commission to make schemes under 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 Commission 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.

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 closure for regular public worship made by a pastoral scheme to be used for Divine Service, and the case is not provided for under the provisions of this paragraph, the parish church of the parish in which the first mentioned church or the site of the church 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 property for which provision is made under section 76.

*Parochial church meetings and councils*

- 10 (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 the period of five years from the date on which the new parish comes into being or such lesser period as may be specified in the scheme or instrument, 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 [Parochial Church Councils \(Powers\) Measure 1956 \(4 & 5 Eliz. 2 No. 3\)](#) 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.
- 11 (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, 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 the council, and



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- (c) 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 (3), 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 the period of five years from the date on which the scheme, order or instrument, as the case may be, came into operation, or such lesser period as may be specified in the scheme, order or instrument and that period may not be extended or renewed by a subsequent pastoral scheme, pastoral order or instrument of the bishop.
- (3) Where the provisions of a pastoral scheme or order for the holding of benefices in plurality are terminated under section 32(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.

*Marriages and banns of matrimony*

- 12 (1) Section 10(1) of the 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 under it 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 closure for regular public worship 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.
- (4) Section 23 of the 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 under such a provision 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.

*Burial rights in new or altered parishes*

- 13 (1) On a union of parishes by virtue of a pastoral scheme the persons residing within the limits of the parish created by the scheme shall have the rights and privileges (if any) of parishioners in respect of burials in that parish:
- (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, by virtue of a pastoral scheme or order providing for the alteration of parochial boundaries, any persons 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*

- 14 (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 transferred shall be transferred to the registrar 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 9(6) for a scheme under 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 mentioned in sub-paragraph (1) that 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 any fund, account or allocation held or made by them 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

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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 expressions “old diocese” and “new diocese” shall respectively mean the diocese from which and the diocese to which the benefice, parish or extra-parochial place or part thereof is transferred.

## SCHEDULE 4

Section 40

### COMPENSATION OF CLERGY

- 1 The incumbent of a benefice dissolved by a pastoral scheme or deemed to be vacated by virtue of section 39, the archdeacon of an archdeaconry dissolved by a pastoral scheme and the holder of any other ecclesiastical office who is subject to Common Tenure 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 or her in consequence of the dissolution or vacation of the benefice or archdeaconry or the abolition of the office, as the case may be.
- 2 If the incumbent of any benefice or the archdeacon of any archdeaconry or the holder of any other ecclesiastical office who is subject to Common Tenure agrees with the mission and pastoral committee that, if he or she resigns his or her 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 or her in consequence of his or her resignation, he or she shall be entitled, on resignation after the making of the scheme or order to compensation for any such loss.
- 3 Without prejudice to the generality of the foregoing provisions, the loss suffered by any such incumbent or archdeacon or office holder shall include loss arising from his or her ceasing to occupy the parsonage house or other official residence of the incumbent, archdeacon or officer holder and any expenses arising from his change of residence.
- 4 The right to and the amount of compensation payable under this Schedule shall be determined in the first instance by the mission and pastoral committee, but the person claiming the compensation (hereinafter called the claimant<sup>7</sup>) shall have a right of appeal to the Appeal Tribunal constituted under this Schedule for the relevant province.
- 5 (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 mission and pastoral committee may, pending the final determination of a claim for compensation, make payments on account to the claimant.
- 6 In determining whether any claimant has suffered loss giving a right to compensation and, if so, the amount thereof, the mission and 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 or she is or is to be engaged; and

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- (b) if he or she 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.

7 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 subparagraph (b) of paragraph 6, the mission and pastoral committee may suspend the periodical payments or reduce the amount of the payments, having regard to the emoluments of the office, but the person affected shall have a right of appeal to the Appeal Tribunal.

8 Any person who has been refused compensation under this Schedule or is receiving or has received compensation may apply to the mission and pastoral committee for a grant or renewal of the compensation or, as the case may be, an increase of the 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 6 or 7 have materially altered to his or her disadvantage, and the mission and pastoral committee may grant or renew the compensation or make an increase on that ground, and an appeal shall lie to the Appeal Tribunal against the refusal of any such application.

9 If any person who is claiming or receiving or has received compensation under this Schedule—

- (a) executes a deed of relinquishment under the [Clerical Disabilities Act 1870 \(33 & 34 Vict. c. 91\)](#); 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 or has had imposed on him or her under the Clergy Discipline Measure [2003 \(No. 3\)](#) a penalty of removal from office, prohibition for life or for a limited period or revocation of his or her licence or has resigned;

the mission and 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 or her under this Schedule.

10 It shall be the duty of every claimant and every applicant under paragraph 8 and every person who is receiving compensation under this Schedule by way of periodical payments, to disclose to the mission and pastoral committee any ecclesiastical office to which he or she has been appointed or which has been offered to him or her and any other remunerated employment in which he or she is or is to be engaged, and any such matter as is mentioned in paragraph 9, and if he or she fails to do so and it appears to the mission and pastoral committee that in consequence it has made payments which otherwise it would not have made or payments in excess of those that it would otherwise have made, it may, without prejudice to the powers under paragraph 7 or 9, direct the repayment of the amount of the payments or excess or such part thereof as it thinks 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.

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- 11 (1) Subject to the following provisions of this paragraph, where any benefice, archdeaconry or office is dissolved, abolished, vacated or resigned in the circumstances mentioned in paragraphs 1 and 2—
- (a) any period thereafter and before the retirement of the holder during which he or she is not in pensionable service within the meaning of the [Clergy Pensions Measure 1961 \(9 & 10 Eliz. 2 No. 3\)](#) (“the 1961 Measure”) shall be deemed for the purposes of that 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 9 shall be excluded;
  - (b) on attaining the retiring age within the meaning of that Measure, he or she shall be deemed to retire for the purposes of that Measure and this paragraph, unless he or she is then in actual pensionable service, and, if his or her total period of pensionable service is less than the qualifying period of such service for the purposes of that Measure, it shall be deemed to be increased to that period;
  - (c) the mission and pastoral committee may, if he or she is deemed to retire as mentioned in sub-paragraph (1)(b) and his or her total period of pensionable service is less than the prescribed period, add to his or her pension and the pension (if any) of his or her surviving spouse or surviving civil partner or dependant 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 that Measure and this paragraph, means the minimum period of pensionable service the performance of which by him or her would entitle him or her to a pension of the highest rate applicable in his or her case.

- (2) This paragraph shall apply in relation to any lump sum payable in accordance with any rules made under section 3 of the [Clergy Pensions \(Amendment\) Measure 1967 \(1967 No. 1\)](#) to a person entitled to a pension under the 1961 Measure as they apply in relation to a pension thereunder.
- (3) The mission and pastoral committee may, with the agreement of the Church of England Pensions Board and the incumbent, archdeacon or holder of any other ecclesiastical office who is subject to Common Tenure or (if he is dead) his or her surviving spouse or surviving civil partner 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 holder of such an ecclesiastical office or his or her surviving spouse or surviving civil partner or dependant.
- (4) Compensation shall not be payable for any loss which the incumbent, archdeacon or holder of an ecclesiastical office who is subject to Common Tenure might suffer by reason of the provision in sub-paragraph (1)(b) that on attaining the retiring age within the meaning of the 1961 Measure he or she 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 or she attains that age.
- (5) In determining the amount of the compensation, if any, to which the incumbent, archdeacon or holder of an ecclesiastical office who is subject to Common Tenure is entitled under this Schedule in respect of any period before he or she retires or is

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deemed to retire for the purposes of the 1961 Measure 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 1961 Measure shall be construed as a reference to that Measure as amended by any regulations approved under section 6 of the Clergy Pensions (Amendment) Measure 1972 (1972 No. 5).
- 12 (1) The functions of the mission and pastoral committee under this Schedule shall not be delegated to a sub-committee.
- (2) At any meeting of the mission and 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 either the bishop or a suffragan bishop if the bishop or that suffragan bishop is a member of the committee.
- (3) The diocesan board of finance shall nominate a person who is not a member of the mission and pastoral committee to attend any such meeting as is referred to in sub-paragraph (2) and the person so nominated shall be entitled to be present throughout and speak, but not vote, at the meeting.
- (4) If neither the bishop nor a suffragan bishop is a member of the committee or is able to attend any such meeting as is referred to in sub-paragraph (2) the bishop shall nominate himself or any suffragan bishop to attend the meeting and the person so nominated shall be entitled to be present throughout and speak, but not vote, at the meeting.
- 13 (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 chair the Tribunal and be known as the “Chair” and the Vicar-General of each of the Provinces of Canterbury and York shall be known as the “Deputy Chairs” and one or other of the three (but not more than one) shall sit on each appeal and shall preside:
- Provided that if one of the three is not available to preside over an appeal, a chancellor of a diocese nominated by the Dean of the Arches and Auditor or, in his or her 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 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 three persons from the panel shall be nominated as aforesaid for each appeal.
- (c) A panel of twelve persons shall be appointed by 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 have a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990) and one person from the panel shall be nominated as aforesaid for each appeal.
- (2) 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 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 part of an appeal may continue as a member of the Tribunal until the determination thereof.

- (3) The registrar of each province shall appoint a secretary to the Appeal Tribunal for that province, who may be the registrar.
  - (4) The same person may be appointed by both registrars as secretary to both Tribunals and the registrars of both provinces may agree that one of them shall be the secretary to both Tribunals.
  - (5) 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.
- 14 The Rule Committee established by section 25 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 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 and also (except so far as it is regulated by rules made under the Church of England (Legal Aid) Measure 1994) the procedure in proceedings before the Appeal Tribunal and in any other proceedings under this Schedule.
- 15 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 determined by the board.

## SCHEDULE 5

Section 57(3)

### THE CHURCHES CONSERVATION TRUST

- 1 The members of the Churches Conservation Trust shall hold office in accordance with the terms of their appointment, and any member shall, on ceasing to hold office, be eligible for reappointment.
- 2 The Trust may act notwithstanding any vacancy among its members.
- 3 The quorum of the Trust shall be three or such greater number as the Trust may determine, and the Trust may regulate its own procedure.

## SCHEDULE 6

Section 78

### DISPOSAL OF HUMAN REMAINS

- 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 (in this Schedule referred to as “the landowner”) shall, before removing any human remains or any tombstones, monuments or memorials commemorating the deceased persons—

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- (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
  - (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 (in this Schedule 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 under paragraph 1 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 tombstones, 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 reasonable cost of the 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.
- 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 month period shall, on removal by the landowner, be reinterred in such land as may be indicated as being



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- reasonably available for the purpose by the bishop, and failing any such land being so indicated, shall be reinterred in any cemetery 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 the 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 local planning authority a record of the removal with sufficient particulars to identify the memorial (including a copy of any inscription on it) 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 the 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 any such conditions shall be complied with as if they formed part of this Schedule.
- 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 86(5)

### SEQUESTRATION OF BENEFICE PROPERTY DURING SUSPENSION PERIOD

- 1        During any suspension period the sequestrators in addition to exercising any powers vested in them by the [Benefices \(Sequestrations\) Measure 1933 \(23 & 24 Geo. 5 No. 4\)](#) 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.
- 2        (1) Notwithstanding anything to the contrary contained in any Act or Measure, the sequestrators, subject to 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 85 and 86;
  - (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 to any sequestrator who is professionally qualified of his or her proper professional charges for work undertaken by him or her;
  - (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 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 diocesan board of finance.
- 3        Moneys received by the diocesan board of finance from the sequestrators under paragraph 2(2) or (3) shall be allocated to the income account of the diocesan stipends fund.
- 4        Where a suspension period immediately follows a period during which a benefice has been vacant whether or not a further suspension period is declared, paragraphs 1 to 3 of this Schedule shall apply to any balance in the hands of the sequestrators at the beginning of the first suspension period as if it were income of the benefice accruing during that period.
- 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 to those accounts as the bishop may require.
- 6        Where, on the termination of a suspension period in respect of any benefice, there follows, whether immediately or after an interval, a further period during which the

profits of the benefice are sequestrated, the original suspension period shall, for the purposes of this Schedule, be deemed to extend to and include that further period.

SCHEDULE 8

Section 110

TRANSITIONAL PROVISIONS

Where any action, proposals, draft pastoral schemes or orders or pastoral (church buildings disposal) schemes such as are mentioned in paragraph 6 of Schedule 6 to the Dioceses, Pastoral and Mission Measure (2007 No. 1) have been taken or have been formulated or prepared before 11th June 2008 but, on that date, no such scheme or order has been made, that paragraph shall continue to have effect, but if any such scheme or order is in force on the coming into force of this Measure, it shall after that date, have effect as if made under this Measure.

SCHEDULE 9

Section 111

REPEALS

<i>Measure</i>	<i>Extent of repeal</i>
1983 No. 1, The Pastoral Measure 1983	The whole Measure.
1986 No. 3, The Patronage (Benefices) Measure 1986	In Schedule 4, paragraphs 17 to 25.
1988 No. 1, The Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988	In Schedule 2, paragraph 4.
1991 No. 1, The Care of Churches and Ecclesiastical Jurisdiction Measure 1991	In Schedule 7, paragraph 5.
1992 No. 1, The Church of England (Miscellaneous Provisions) Measure 1992	In Schedule 3, paragraphs 19 to 25.
1993 No. 2, The Priests (Ordination of Women) Measure 1993	In Schedule 3, paragraphs 6 to 8.
1994 No. 1, The Pastoral (Amendment) Measure 1994	The whole Measure.
1994 No. 3, The Church of England (Legal Aid) Measure 1994	In Schedule 2, paragraph 2.
1995 No. 1, The Team and Group Ministries Measure 1995	Part I. Schedule 1. Schedule 2.
1995 No. 2, The Church of England (Miscellaneous Provisions) Measure 1995	Section 11.

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<i>Measure</i>	<i>Extent of repeal</i>
1998 No. 1, The National Institutions Measure 1998	In Schedule 5, paragraph 5.
2000 No. 1, The Church of England (Miscellaneous Provisions) Measure 2000	Section 10. Schedule 6.
2005 No. 3, The Church of England (Miscellaneous Provisions) Measure 2005	Section 8. Schedule 4.
2006 No. 1, The Church of England (Miscellaneous Provisions) Measure 2006	Section 12. Schedule 4.
2006 No. 2, The Pastoral (Amendment) Measure 2006	The whole Measure.
2007 No. 1, The Dioceses, Pastoral and Mission Measure 2007	In section 1, the words “or the Pastoral Measure 1983”. Part III. Part IV. Part V. Part VI. Section 58. Section 59. Section 60. Section 61. In section 62(1) the definition of “mission and pastoral committee”. Section 62(3). Schedule 3. Schedule 5. In Schedule 6, paragraph 8.
2009 No. 1, The Ecclesiastical Offices (Terms of Service) Measure 2009	In Schedule 2, paragraphs 2 to 18.
2010 No. 1, The Church of England (Miscellaneous Provisions) Measure 2010	Section 7. Section 12(3).