

Changes to legislation: Mission and Pastoral Measure 2011 is up to date with all changes known to be in force on or before 03 September 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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”.

Commencement Information

I1 Sch. 1 para. 1 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

2 The bishop, if he so wishes, may be a member and may also be the Chair.

Commencement Information

I2 Sch. 1 para. 2 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

3 Unless the bishop is the Chair, the Chair shall be appointed by the bishop.

Commencement Information

I3 Sch. 1 para. 3 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

4 All archdeacons in the diocese shall be members or, if there is only one archdeacon, that archdeacon shall be a member.

Commencement Information

I4 Sch. 1 para. 4 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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.

Commencement Information

I5 Sch. 1 para. 5 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

6 The written constitution of the committee shall provide for a quorum.

Commencement Information

I6 Sch. 1 para. 6 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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- 7 Subject to paragraph 6, the committee may act notwithstanding any vacancy in the membership or any defect in its composition.

Commencement Information

I7 Sch. 1 para. 7 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I8 Sch. 1 para. 8 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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^{F1}....

Textual Amendments

F1 Words in [Sch. 1 para. 9](#) omitted (1.7.2018) by virtue of [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), [ss. 6\(3\)](#), [14\(3\)](#); [S.I. 2018/722](#), [art. 2\(a\)](#) (with [Sch. para. 3](#))

Commencement Information

I9 Sch. 1 para. 9 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I10 Sch. 1 para. 10 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 11 The committee shall have power to make provision for the appointment of a secretary to the committee and any sub-committee.

Commencement Information

I11 Sch. 1 para. 11 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

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Commencement Information

I12 Sch. 1 para. 12 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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.

Commencement Information

I13 Sch. 2 para. 1 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I14 Sch. 2 para. 2 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I15 Sch. 2 para. 3 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

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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).

Commencement Information

I16 Sch. 2 para. 4 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 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.

Commencement Information

I17 Sch. 2 para. 5 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I18 Sch. 2 para. 6 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I19 Sch. 2 para. 7 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I20 Sch. 2 para. 8 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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

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Commencement Information

I21 Sch. 2 para. 9 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I22 Sch. 2 para. 10 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I23 Sch. 2 para. 11 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I24 Sch. 2 para. 12 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I25 Sch. 2 para. 13 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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SCHEDULE 3

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

54

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, [^{F2}by a patronage board constituted by the scheme].
- (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 ^{F3}... 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.

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- (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.
- ^{F4}(11)
- (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 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.

Textual Amendments

- F2** Words in Sch. 3 para. 1(1) substituted (1.10.2018) by Mission and Pastoral etc. (Amendment) Measure 2018 (No. 4), ss. 5(6), 14(3); S.I. 2018/722, art. 3(e) (with Sch. para. 2)
- F3** Words in Sch. 3 para. 1(3) omitted (1.10.2018) by virtue of Mission and Pastoral etc. (Amendment) Measure 2018 (No. 4), ss. 5(7), 14(3); S.I. 2018/722, art. 3(e) (with Sch. para. 2)
- F4** Sch. 3 para. 1(11) omitted (1.10.2018) by virtue of Mission and Pastoral etc. (Amendment) Measure 2018 (No. 4), ss. 5(8), 14(3); S.I. 2018/722, art. 3(e)
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Commencement Information

- I26** Sch. 3 para. 1 in force at 1.7.2012 by S.I. 2012/1, art. 2

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- 2 (1) A pastoral scheme establishing a team ministry which provides for the presentation of the rector by a patronage board constituted by the scheme ^{F5}... 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 ^{F6}... .
- ^{F7}(3)
- ^{F7}(4)
- (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

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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) ^{F8}... 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.

Textual Amendments

- F5** Words in Sch. 3 para. 2(1) omitted (1.10.2018) by virtue of [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 5(9)**, 14(3); S.I. 2018/722, art. 3(e) (with Sch. para. 2)
- F6** Words in Sch. 3 para. 2(2) omitted (1.10.2018) by virtue of [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 5(10)**, 14(3); S.I. 2018/722, art. 3(e) (with Sch. para. 2)
- F7** Sch. 3 para. 2(3)(4) omitted (1.10.2018) by virtue of [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 5(11)**, 14(3); S.I. 2018/722, art. 3(e)
- F8** Words in Sch. 3 para. 2(10) omitted (1.10.2018) by virtue of [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 5(12)**, 14(3); S.I. 2018/722, art. 3(e)

Commencement Information

- I27** Sch. 3 para. 2 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

- 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.

Commencement Information

- I28** Sch. 3 para. 3 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

- 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:

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,

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- (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.

Commencement Information

I29 Sch. 3 para. 4 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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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.

Commencement Information

I30 Sch. 3 para. 5 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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 incumbencer 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

Commencement Information

I31 Sch. 3 para. 6 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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.

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- (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.

Commencement Information

I32 Sch. 3 para. 7 in force at 1.7.2012 by S.I. 2012/1, art. 2

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 [F9section 21 of the Church Property Measure 2018] 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.

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Textual Amendments

F9 Words in Sch. 3 para. 8(2) substituted (1.3.2019) by [Church Property Measure 2018 \(No. 8\), s. 53\(2\)](#), [Sch. 1 para. 28](#); [S.I. 2019/97, art. 2](#)

Commencement Information

I33 Sch. 3 para. 8 in force at 1.7.2012 by [S.I. 2012/1, art. 2](#)

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.

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- (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 [F10]section 69 of the Charities Act 2011 [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 [F11]sections 69 to 71 of that Act].
- (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 [F12]or] property for which provision is made under [F13]section 77].

Textual Amendments

- F10** Words in Sch. 3 para. 9(6) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#) , s. 355 , [Sch. 7 para. 149\(2\)\(a\)](#) (with [s. 20\(2\)](#) , [Sch. 8](#))
- F11** Words in Sch. 3 para. 9(6) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#) , s. 355 , [Sch. 7 para. 149\(2\)\(b\)](#) (with [s. 20\(2\)](#) , [Sch. 8](#))
- F12** Word in Sch. 3 para. 9(10) inserted (1.3.2019) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\)](#) , [ss. 15\(5\)\(a\)](#) , 17(3); S.I. 2019/67, art. 2(1)(n)

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F13 Words in Sch. 3 para. 9(10) substituted (1.3.2019) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\), ss. 15\(5\)\(b\), 17\(3\); S.I. 2019/67, art. 2\(1\)\(n\)](#)

Commencement Information

I34 Sch. 3 para. 9 in force at 1.7.2012 by [S.I. 2012/1, art. 2](#)

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.

Commencement Information

I35 Sch. 3 para. 10 in force at 1.7.2012 by [S.I. 2012/1, art. 2](#)

- 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
 - (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

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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.

Commencement Information

I36 Sch. 3 para. 11 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

Marriages and banns of matrimony

12 ^{F14}(1)

- (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.

Textual Amendments

F14 Sch. 3 para. 12(1) repealed (1.3.2019) by [Church Property Measure 2018 \(No. 8\)](#), s. 53(2), [Sch. 3](#) (with [Sch. 2](#)); [S.I. 2019/97](#), [art. 2](#)

Commencement Information

I37 Sch. 3 para. 12 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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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

Commencement Information

I38 Sch. 3 para. 13 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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 ^{F15}section 69 of the Charities Act 2011 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

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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 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.

Textual Amendments

F15 Words in Sch. 3 para. 14(1)(e) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 149\(3\)](#) (with [s. 20\(2\), Sch. 8](#))

Commencement Information

I39 Sch. 3 para. 14 in force at 1.7.2012 by [S.I. 2012/1, art. 2](#)

[^{F16}SCHEDULE 4

COMPENSATION OF OFFICE-HOLDERS

Textual Amendments

F16 Sch. 4 substituted (1.7.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\), ss. 6\(2\), 14\(3\); S.I. 2018/722, art. 2\(a\)](#) (with [Sch. para. 3](#))

Persons entitled to compensation

- 1 (1) Each of the following is entitled to compensation under this Schedule—
- (a) the holder of an ecclesiastical office who is subject to Common Tenure whose office is abolished by or as the result of a pastoral scheme or order;
 - (b) the incumbent of a benefice dissolved by a pastoral scheme, or deemed to be vacated by virtue of section 39, who is not subject to Common Tenure;
 - (c) the archdeacon of an archdeaconry dissolved by a pastoral scheme who is not subject to Common Tenure.
- (2) But a person who comes within sub-paragraph (1) is not entitled to compensation under this Schedule if the pastoral scheme or order also provides for the person's appointment to an ecclesiastical office with a stipend and any other emoluments at an equivalent or higher level.
- 2 (1) This paragraph applies if the holder of an ecclesiastical office who is subject to Common Tenure, or the incumbent of a benefice or an archdeacon who is not so subject, agrees with the mission and pastoral committee that compensation will be payable if he or she resigns from the office in question to enable a pastoral scheme or order to come into operation or to facilitate its coming into operation.

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- (2) The person is entitled, on resignation following the making of the scheme or order, to compensation under this Schedule.
- (3) But an agreement to the effect mentioned in sub-paragraph (1) is of no effect, and sub-paragraph (2) accordingly does not apply, in a case where the pastoral scheme or order also provides for the person's appointment to an ecclesiastical office with a stipend and any other emoluments at an equivalent or higher level.

Amount of compensation

- 3 (1) The amount of compensation payable to a person under this Schedule is—
 - (a) twelve months' stipend, and
 - (b) the amount that would be required by way of contribution under ^[F17]section 9(2) of the Church of England Pensions Measure 2018] for twelve months' service by the person in the office in question on that stipend.
- (2) In sub-paragraph (1), the references to a stipend are to the stipend that the person was receiving immediately before ceasing to hold the office in question.

Textual Amendments

F17 Words in [Sch. 4 para. 3\(1\)\(b\)](#) substituted (1.3.2019) by [Church of England Pensions Measure 2018 \(No. 9\)](#), s. 61(2), [Sch. 3 para. 6](#); S.I. 2019/98, art. 2

Payments of compensation

- 4 (1) A payment of compensation under this Schedule is to be made as a lump sum by the diocesan board of finance.
- (2) The payment is to be charged—
 - (a) on the capital account or the income account of the diocesan stipends fund, or
 - (b) if the board considers it would be more appropriate for the payment to be charged on another of the accounts it holds, on that other account.
- (3) The board has the function of deciding on a case by case basis which account to charge under sub-paragraph (2).

Housing

- 5 (1) This paragraph applies where a person entitled to compensation under this Schedule was, immediately before ceasing to hold the office in question, occupying a parsonage house or other official residence for the better performance of the duties of the office.
- (2) The diocesan board of finance must provide the person with accommodation which is suitable for him or her, and the family members with whom he or she lives, for a period of twelve months beginning with the date on which the person ceases to hold the office in question.
- (3) In sub-paragraph (2), the reference to providing accommodation includes a reference to making arrangements with another person for that other person to provide accommodation.

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- (4) The diocesan board of finance may, instead of acting as mentioned in sub-paragraph (2), make a payment to the person concerned of an amount agreed by the board and the person; and where the board does so, it is to be treated as having discharged the duty under sub-paragraph (2).
- (5) Paragraph 4 applies to a payment under sub-paragraph (4) as it applies to a payment of compensation under this Schedule.

Additional payment

- 6 (1) Where a person is entitled to compensation under this Schedule, the bishop may authorise an additional payment to be made to the person of such amount as the bishop may determine.
- (2) The person concerned may apply for a review of—
 - (a) a decision of the bishop not to authorise a payment to the person under sub-paragraph (1), or
 - (b) where the bishop decides to authorise a payment under sub-paragraph (1), the amount authorised.
- (3) The only grounds on which an application may be made under sub-paragraph (2) are that the bishop's decision, if implemented, would cause exceptional hardship to the person concerned or one or more of the family members with whom he or she lives.
- (4) The Archbishops of Canterbury and York must appoint a person to carry out reviews under this paragraph; and the person so appointed (“the reviewer”)—
 - (a) may be removed from office by the Archbishops on the grounds of incapacity or serious misconduct, but
 - (b) subject to that, holds office for such period and on such other terms as the Archbishops decide.
- (5) An application for a review under this paragraph—
 - (a) must be made in writing to the reviewer,
 - (b) must be copied to the bishop,
 - (c) must be made within four weeks of the date on which the applicant was notified of the bishop's decision, and
 - (d) must explain the nature of the hardship on the basis of which the application is being made.
- (6) In carrying out a review under this paragraph, the reviewer must decide whether the grounds for the application are made out; and in so doing, the reviewer must act impartially.
- (7) Having carried out a review under this paragraph, the reviewer must give written notification of the decision on the review to the applicant and to the bishop; and the notification must—
 - (a) include the reasons for the decision, and
 - (b) if the decision is that the grounds for the application are made out—
 - (i) specify the amount of the payment which the reviewer considers should be made under this paragraph, or
 - (ii) direct that the matter is to be remitted to the bishop for reconsideration.

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- (8) In the case of a notification within sub-paragraph (7)(b)(i), the bishop must authorise payment of the amount so specified to be made to the person.
- (9) In the case of a notification within sub-paragraph (7)(b)(ii), the bishop must reconsider the matter; and the preceding provisions of this paragraph apply accordingly.
- (10) Paragraph 4 applies to a payment under this paragraph as it applies to a payment of compensation under this Schedule.
- (11) The functions of the Archbishops under this paragraph are to be exercised jointly; but if either Archbishop is incapacitated, or there is a vacancy in either see, the functions are instead to be exercised by the other Archbishop.

Power to amend

- 7 (1) Where the Archbishops' Council considers, in the light of experience, that it is necessary or appropriate to make adjustments to the way in which the scheme under this Schedule operates, it may by order—
 - (a) amend the preceding provisions of this Schedule so as to give effect to those adjustments, and
 - (b) amend this or any other Measure or any instrument made under this or any other Measure in consequence of provision under paragraph (a).
- (2) An order under this paragraph may not vary—
 - (a) the requirements for entitlement to compensation, or
 - (b) the amount of compensation payable.
- (3) An order under this paragraph may not be made unless—
 - (a) a draft of the order has been laid before the General Synod and approved by it with or without amendment, and
 - (b) the draft so approved has been referred to the Archbishops' Council.
- (4) On referral of the draft, the Council must—
 - (a) if the draft was approved without amendment, make the order by applying its seal, or
 - (b) if the draft was approved with amendment—
 - (i) make the order by applying its seal, or
 - (ii) withdraw the draft for further consideration.
- (5) An order under this paragraph [F18 may not come into force unless] it is sealed by the Council.
- (6) If the Business Committee of the General Synod determines that a draft of an order under this paragraph does not need to be debated by the General Synod, the draft is to be treated as approved for the purposes of this paragraph unless a member of the General Synod gives notice in accordance with its Standing Orders that he or she—
 - (a) wishes the draft order to be debated, or
 - (b) wishes to move an amendment to it.
- (7) The power to make an order under this paragraph is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies—
 - (a) as if the order had been made by a Minister of the Crown, and

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- (b) as if this Measure were an Act of Parliament providing for the instrument containing the order to be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F18 Words in Sch. 4 para. 7(5) substituted (retrospectively) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\)](#), **ss. 8(9)**, 11(8)(c), 17(2)(b)

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.

Commencement Information

I40 Sch. 5 para. 1 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

- 2 The Trust may act notwithstanding any vacancy among its members.

Commencement Information

I41 Sch. 5 para. 2 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

- 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.

Commencement Information

I42 Sch. 5 para. 3 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

SCHEDULE 6

Section 78

DISPOSAL OF HUMAN REMAINS

Modifications etc. (not altering text)

C1 [Sch. 6](#) power to apply (with modifications) conferred (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), **ss. 92(4)**, 99(2) (with s. 93, Sch. 4 Pt. 1); [S.I. 2018/720](#), **art. 2**

- 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 “

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the landowner”) shall, before removing any human remains or any tombstones, monuments or memorials commemorating the deceased persons—

- (a) publish in a newspaper circulating in the locality a notice of intention to do so at least once during each of two successive weeks; and
- (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.

Commencement Information

I43 Sch. 6 para. 1 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I44 Sch. 6 para. 2 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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

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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.

Commencement Information

I45 Sch. 6 para. 3 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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 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.

Commencement Information

I46 Sch. 6 para. 4 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I47 Sch. 6 para. 5 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I48 Sch. 6 para. 6 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I49 Sch. 6 para. 7 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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- 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.

Commencement Information

I50 Sch. 6 para. 8 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I51 Sch. 6 para. 9 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I52 Sch. 6 para. 10 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I53 Sch. 6 para. 11 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

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Commencement Information

I54 Sch. 6 para. 12 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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.

Commencement Information

I55 Sch. 7 para. 1 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I56 Sch. 7 para. 2 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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- 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.

Commencement Information

I57 Sch. 7 para. 3 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I58 Sch. 7 para. 4 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I59 Sch. 7 para. 5 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

- 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.

Commencement Information

I60 Sch. 7 para. 6 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

SCHEDULE 8

Section 110

TRANSITIONAL PROVISIONS

Commencement Information

I61 Sch. 8 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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PROSPECTIVE

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

Commencement Information

I62 Sch. 9 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

<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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1998 No. 1, The National Institutions In Schedule 5, paragraph 5.
Measure 1998

2000 No. 1, The Church of England Section 10.
(Miscellaneous Provisions) Measure Schedule 6.
2000

2005 No. 3, The Church of England Section 8.
(Miscellaneous Provisions) Measure Schedule 4.
2005

2006 No. 1, The Church of England Section 12.
(Miscellaneous Provisions) Measure Schedule 4.
2006

2006 No. 2, The Pastoral The whole Measure.
(Amendment) Measure 2006

2007 No. 1, The Dioceses, Pastoral In section 1, the words “or the Pastoral Measure
and Mission Measure 2007 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 In Schedule 2, paragraphs 2 to 18.
Offices (Terms of Service) Measure
2009

2010 No. 1, The Church of England Section 7.
(Miscellaneous Provisions) Measure Section 12(3).
2010

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 34(13) word omitted by [2019 No. 1 Sch. 2 para. 33](#)
- s. 35(5) omitted by [2019 No. 1 Sch. 2 para. 34](#)
- s. 92(2) words substituted by [2018 No. 8 Sch. 1 para. 27\(3\)](#)
- s. 103 title substituted by [2019 No. 1 Sch. 2 para. 35](#)
- Sch. 3 para. 2(9) omitted by [2019 No. 1 Sch. 2 para. 36\(2\)\(b\)](#)
- Sch. 3 para. 4(3)(4) omitted by [2019 No. 1 Sch. 2 para. 36\(3\)\(b\)](#)
- Sch. 3 para. 11 omitted by [2019 No. 1 Sch. 2 para. 36\(4\)](#)
- Sch. 3 para. 2(10) word substituted by [2019 No. 1 Sch. 2 para. 36\(2\)\(c\)](#)
- Sch. 3 para. 2(8) words omitted by [2019 No. 1 Sch. 2 para. 36\(2\)\(a\)](#)
- Sch. 3 para. 4(5) words omitted by [2019 No. 1 Sch. 2 para. 36\(3\)\(c\)](#)
- Sch. 3 para. 4(2) words substituted by [2019 No. 1 Sch. 2 para. 36\(3\)\(a\)](#)
- Sch. 4 para. 14 words omitted (cond.) by [2018 No. 3, Sch. 3 para. 18A \(as inserted\)](#) by [2018 No. 3 Sch. 4 para. 10\(5\)](#)

Changes and effects yet to be applied to the whole Measure associated Parts and Chapters:

Whole provisions yet to be inserted into this Measure (including any effects on those provisions):

- s. 31(4A) inserted by [2019 No. 1 Sch. 2 para. 32](#)
- s. 103A inserted by [2019 No. 1 Sch. 2 para. 35](#)