



Church of Scotland (Property And Endowments) Act 1925

1925 CHAPTER 33 15 and 16 Geo 5

PART II

SCOTTISH ECCLESIASTICAL COMMISSIONERS

20 Constitution, powers and procedure of Scottish Ecclesiastical Commissioners.

- (1) Such persons not exceeding five in number as His Majesty may appoint shall be Commissioners under this Act for the purposes aftermentioned, and shall be styled the Scottish Ecclesiastical Commissioners. One of the Commissioners being a person who holds or has held judicial office shall be appointed Chairman.
- (2) The Commissioners shall hold office during His Majesty's pleasure. If a vacancy occurs in the number of the Commissioners by reason of death, resignation, incapacity or otherwise, His Majesty may appoint some other person to fill the vacancy, and so from time to time as occasion requires.
- (3) The Commissioners may act by any one or more of their body and notwithstanding any vacancy in their number; but if any person aggrieved by an order or decision of one Commissioner so requires, the order or decision shall be reconsidered on rehearing by not less than three Commissioners.
- (4) The procedure, place of meeting, and authentication of documents of the Commissioners shall be regulated in such manner as the Commissioners determine.
- (5) The Commissioners may examine witnesses on oath, and for enforcing the attendance of witnesses, the examination of witnesses and the production of books and documents, shall have all such powers, rights, and privileges as are vested in any of His Majesty's Courts of Law.
- (6) The Commissioners may appoint or employ a secretary and such other officers and persons and with such remuneration as they think necessary, and may remove any person so appointed or employed.

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- (7) The salaries and remuneration of any persons so appointed or employed, and all expenses of the Commissioners incurred in the execution of this Act, shall be paid out of moneys to be provided for that purpose by the General Assembly.

21 Orders of Commissioners.

- (1) The Commissioners may, after such inquiry in each individual case as they may think fit, make such orders as they may consider necessary or proper for any of the following purposes, that is to say:
- (a) ^{M1}for giving effect to the schemes framed by the Commissioners under the provisions of this Act relating to burgh churches, including the modification of the Act 23 & 24 Victoria, chapter 50, entitled “An Act to abolish the annuity tax in Edinburgh and Montrose, and to make provision in regard to the stipends of the ministers in that city and burgh, and also to make provision for the patronage of the church of North Leith,” and of any other local or personal Act, decree of the Court of Session or Court of Teinds or agreement relating to the burgh churches;
 - (b) for the transfer to the General Trustees of the parliamentary churches and manses under the provisions of the section of this Act relating to parliamentary churches and manses;
 - (c) for the transfer to the General Trustees of the churches and manses of the parishes mentioned in the Eighth Schedule to this Act;
 - (d) for the transfer to the General Trustees of endowments referred to in the section of this Act relating to endowments in certain parishes quoad omnia;
 - (e) for framing and giving effect to schemes relating to churches and manses with respect to which the sheriff may, as hereinafter provided, find and declare that the case ought to be dealt with by the Commissioners;
 - (f) for giving effect to the provisions of the section of this Act relating to the transfer of rights in glebes;
 - (g) for framing and giving effect to a scheme or schemes under the provisions of the section of this Act relating to allocation by General Trustees of certain moneys to be received from Treasury;
 - (h) for the protection and preservation of any church or other ecclesiastical building which is for the time being used for ecclesiastical purposes, and which the Commissioners may, upon application made to them by the Royal Commission on Historic Monuments in Scotland or any person interested, consider to require special provisions in the public interest with respect to maintenance and access;
 - (i) for the transfer to and administration by the General Trustees of any capital sum fixed or awarded and invested by way of commutation of fish teinds under the provisions of the ^{M2}Fish Teinds (Scotland) Act 1864;
 - (j) for the transfer to a kirk session of communion plate or other ecclesiastical furnishings in use in a church or by a congregation in any case in which a right of property in the plate or other furnishing is claimed by any public body;
 - (k) for any other matter or thing which the Commissioners consider to be necessary or proper in connection with any of the purposes aforesaid.
- (2) Any such order shall have effect as if enacted in this Act, and may be recorded in the Register of Sasines.

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- (3) In respect that the ^{M3}Act 23 & 24 Victoria chapter 50, imposed an obligation on the town council of Edinburgh to grant a bond of annuity for the annual sum of four thousand two hundred pounds to the Edinburgh Ecclesiastical Commissioners for the purposes of the said Act, and in respect that the ^{M4}Act 33 & 34 Victoria chapter 87, empowered the said town council to redeem the said bond of annuity by a payment to the said Commissioners of the sum of fifty-six thousand five hundred pounds and that the said bond of annuity was so redeemed by the payment of the said sum to the said Commissioners, nothing contained in this Act or in any order to be made by the Commissioners under the provisions of this section shall impose or be deemed to impose any further financial obligation or liability on the said town council in relation to the burgh churches situated within the burgh of Edinburgh, and any liability or obligation incumbent on the said town council in connection with the upkeep and maintenance or restoration or renewal of the burgh churches situated within the said burgh or payment of stipend to the ministers thereof shall be deemed to have been fulfilled and shall be at an end.

Modifications etc. (not altering text)

C1 Ss. 21(2), 28(2) amended by [Land Registration \(Scotland\) Act 1979 \(c.33, SIF 31:3\)](#), s. 29(2)(3)

Marginal Citations

M1 1860 c. 50.
M2 1864 c. 33.
M3 1860 c. 50
M4 1870 c. 57

22 Burgh churches.

With respect to the churches mentioned in the Ninth Schedule to this Act (in this Act referred to as “burgh churches”) the following provisions shall have effect:—

- (1) As soon as conveniently may be after the passing of this Act the Commissioners shall inquire into all circumstances relating to existing rights of property in the fabrics and sites of the burgh churches, and any manses or other subjects connected therewith, and in any churchyards connected with the burgh churches, the stipends of the ministers thereof and any funds, endowments, pew rents or assessments from which the stipends of the ministers, the maintenance of the churches and other subjects, and any other expenditure in connection therewith is defrayed, and shall thereafter frame schemes for the future ownership, maintenance, and administration of the burgh churches and other subjects and the payment of stipend to the ministers:
- (2) Every such scheme shall make provision for—
- the transfer to the General Trustees of all rights of property vested in or belonging to the magistrates or the town council of any of the burghs within which the burgh churches are situated in the fabrics and sites of the burgh churches and of any manses and other subjects connected therewith, and in any churchyards connected with the burgh churches, and for the transfer to the General Trustees of the duty of maintaining any property so transferred;
 - the transfer to the General Trustees of all or any property held for church purposes by or on behalf of the magistrates or the town council of any of the burghs within which the burgh churches are situated;

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- (c) the periodical payment to the General Trustees of all sums which are at present paid or payable by the magistrates or town council of any of the said burghs in respect of the stipends of the ministers of the burgh churches and (so far as the Commissioners consider this to be equitable and reasonable) of all sums which are at present paid or payable by the magistrates or town council of any of the said burghs in respect of the ownership and maintenance of the fabrics and sites of the churches and manses, or other subjects connected therewith;
- (d) the redemption of such periodical payments by the payment to the General Trustees of a capital sum or by the creation of terminable annuities or of sinking funds;
- (e) the transfer to the General Trustees of any property heritable or moveable held by any public body (whether statutory or otherwise) or person other than the magistrates or town council for the benefit of the minister of any of the burgh churches by way of stipend;
- (f) the protection of the interests of the ministers or assistants and successors who at the passing of this Act are incumbents of the benefices of the burgh churches;
- (g) the protection (so far as the Commissioners consider this to be practicable) of the interests of town councils in the burgh churches as regards sittings allotted to the town councils for their use, the right to have the church bells rung on special occasions, and the preservation of any other similar right or privilege hitherto enjoyed by the town councils;
- (h) the General Trustees before selling, feuing, or otherwise alienating a burgh church, and the site thereof, giving to the town council of the burgh in which such burgh church is situated an opportunity of acquiring the same on such terms and conditions as may be agreed upon or as, failing agreement, may be determined by an arbiter to be appointed by the sheriff on the application of either party provided as follows:—
 - (i) The price to be paid to the General Trustees by the town council shall not exceed such a sum as would be necessary to reinstate the church on a new site within the municipal boundaries of the burgh in which such burgh church is situated, should it in the judgment of the General Trustees be necessary to provide at the time a new church within the municipal boundaries of such burgh;
 - (ii) In the event of it being unnecessary in the judgment of the General Trustees to provide at the time a new church such as aforesaid the price to be paid to the General Trustees by the town council shall not exceed such a sum as would be necessary to reimburse the General Trustees for all expenditure incurred by them subsequent to the passing of this Act, and within forty years prior to the date of the sale, for the repair, enlargement, or renewal of such burgh church, or part thereof, or as the case may be to liquidate any outstanding debt or obligation incurred or undertaken by the General Trustees relative to any such repair, enlargement, or renewal (so far as such expenditure, debt, or obligation has not been met out of any periodical payment made by the magistrates or town council of such burgh for the maintenance of such burgh church, or out of any capital sum, terminable annuity, or sinking fund paid in respect of the redemption thereof), and to meet the expenses of the necessary conveyance:

[^{F1}(2A) References in any scheme made under this section of this Act and in subsection (2) above to the magistrates or the town council of a burgh and to the burgh within which

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a burgh church is situated shall, on and after 1st April 1996, be construed as references to the council and to the council area within which that burgh church is situated.]

- (3) The General Trustees shall not be entitled to sell, feu, or otherwise alienate any of the burgh churches or the site thereof to any person unless they shall have previously offered to convey such church or site to the [F2 council] [F3 in whose area] such church is situated, on the same terms and conditions as they may be prepared to accept from such person, and [F3 that] [F2 council] have failed to reply to the offer within a period of one month from the date thereof, or have within that period declined to accept the offer:
- (4) The provisions of this Act in regard to the transfer to the General Trustees of all rights of property in any churchyards connected with the burgh churches, and the duty of maintaining any churchyards so transferred, shall not apply to the churchyards of Greyfriars and Canongate in the [F4 former] burgh of Edinburgh, or to the churchyard of St. David's or Ramshorn in the [F4 former] burgh of Glasgow, or to the churchyards of St. Nicholas and St. Clements in the [F4 former] burgh of Aberdeen, which churchyards shall . . . F5 belong to and be maintained by the [F6 councils of the [F7 areas] in which these churchyards are situated], respectively:
- (5) In the application of paragraphs (b), (c), and (d) of subsection (2) of this section to any scheme framed with respect to any of the burgh churches the Commissioners shall have regard to the conditions contained in the decree of disjunction and erection of the burgh church:
- (6) When all matters contained in the scheme relating to a burgh church have been duly carried out and implemented all liability or obligation incumbent on the magistrates and town council of the burgh in which a burgh church is situated, in connection with the upkeep and maintenance of such burgh church and payment of stipend to the minister thereof, shall be deemed to have been fulfilled and shall be at an end, subject only to the payment of any capital sum, terminable annuity, or sinking fund for the redemption of any periodical payment made by such magistrates or town council in connection with the maintenance of such church and the stipend of the minister thereof.

[F8(7) In this section, except in subsection (6), “council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.]

Textual Amendments

- F1 S. 22(2A) substituted (S.) (1.4.1996) by S.I. 1996/739, art. 7(1), **Sch. 1 Pt. I para. 1(2)(a)**
- F2 Words substituted by **Local Government (Scotland) Act 1973 (c. 65), Sch. 27 Pt. II para. 63(b)**
- F3 Words in s. 22(3) substituted (S.) (1.4.1996) by S.I. 1996/739, art. 7(1), **Sch. 1 Pt. I para. 1(2)(b)(i)(ii)**
- F4 Word inserted by **Local Government (Scotland) Act 1973 (c. 65), Sch. 27 Pt. II para. 63(c)(i)**
- F5 Words repealed by **Local Government (Scotland) Act 1973 (c. 65), Sch. 27 Pt. II para. 63(c)(ii), Sch. 29**
- F6 Words substituted by **Local Government (Scotland) Act 1973 (c. 65), Sch. 27 Pt. II para. 63(c)(iii)**
- F7 Word in s. 22(4) substituted (S.) (1.4.1996) by S.I. 1996/739, art. 7(1), **Sch. 1 Pt. I para. 1(2)(c)**
- F8 S. 22(7) added (S.) (1.4.1996) by S.I. 1996/739, art. 7(1), **Sch. 1 Pt. I para. 1(2)(d)**

23 Parliamentary churches and manses.

With respect to the churches and manses mentioned in the Tenth Schedule to this Act (which together with any land whether described as churchyard, glebe, or

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otherwise connected with the said churches and manses are in this Act referred to as “parliamentary churches and manses”) the following provisions shall have effect:—

As soon as conveniently may be after the passing of this Act the Commissioners shall inquire into all circumstances relating to existing rights of property in the fabrics and sites of the parliamentary churches and manses, and to the maintenance thereof whether under the provisions of the ^{M5}Act 5 George IV., Chapter 90, and any conveyance or other deed relating to any of the said churches and manses in favour of the Commissioners under the said Act or under any decision of the Court of Teinds or otherwise, and the Commissioners shall thereafter by order provide for the transfer to the General Trustees of the fabrics and sites of the said churches and manses, and of all powers and duties with respect to the maintenance and repair of the said fabrics and the allocation of sitting accommodation in the said churches.

Marginal Citations

M5 [1824 c.90](#)

24 Churches and manses of certain parishes erected under Act of 1844.

With respect to the churches and manses of the parishes quoad omnia mentioned in the Eighth Schedule to this Act, the following provisions shall have effect:—

As soon as conveniently may be after the passing of this Act the Commissioners shall inquire into all circumstances relating to existing rights of property in the fabrics and sites of the churches and manses of the parishes aforesaid, and to the maintenance thereof whether under any existing titles relating to the said churches and manses or otherwise, and the Commissioners shall thereafter by order provide for the transfer to the General Trustees of the fabrics and sites of the said churches and manses, and of all powers and duties with respect to the maintenance and repair of the said fabrics, and the allocation of sitting accommodation in the said churches.

[^{F9}25 Mortifications and endowments in certain parishes quoad omnia.

Where in the case of a parish quoad omnia (not being one of the parishes quoad omnia mentioned in the Eighth Schedule to this Act) there exists any mortification or other endowment not derived from teinds which is for the benefit of the minister or parish either by way of stipend or by way of provision of a manse, glebe or other subjects, the Commissioners shall, upon application made to them by the General Trustees, inquire into all circumstances relating to such mortification or endowment and may thereafter, by order, provide for the transfer of the mortification or endowment or of the properties forming the subject of such mortification or endowment to the General Trustees:

Provided that, except in the case of a benefice which is actually vacant at the passing of this Act, any order made by the Commissioners under this section shall not take effect unless or until the benefice shall have become actually vacant after such passing.]

Textual Amendments

F9 [S. 25](#) substituted by [Church of Scotland \(Property and Endowments\) Amendment Act 1933 \(c. 44\), s. 16](#)

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