



# Church of Scotland (Property And Endowments) Act 1925

1925 CHAPTER 33 15 and 16 Geo 5

## PART II

### SCOTTISH ECCLESIASTICAL COMMISSIONERS

#### 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—
  - (a) 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;
  - (b) 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;
  - (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

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*Status: Point in time view as at 01/04/1996. This version of this provision has been superseded.*

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- 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:

[<sup>F1</sup>(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 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.]

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- (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 [<sup>F2</sup>council][<sup>F3</sup>in whose area] such church is situated, on the same terms and conditions as they may be prepared to accept from such person, and [<sup>F3</sup>that][<sup>F2</sup> 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 [<sup>F4</sup>former] burgh of Edinburgh, or to the churchyard of St. David's or Ramshorn in the [<sup>F4</sup>former] burgh of Glasgow, or to the churchyards of St. Nicholas and St. Clements in the [<sup>F4</sup>former] burgh of Aberdeen, which churchyards shall . . . <sup>F5</sup> belong to and be maintained by the [<sup>F6</sup>councils of the [<sup>F7</sup>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.
- [<sup>F8</sup>(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(e)(i)**
- F5** Words repealed by **Local Government (Scotland) Act 1973 (c. 65), Sch. 27 Pt. II para. 63(e)(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)**

**Status:**

Point in time view as at 01/04/1996. This version of this provision has been superseded.

**Changes to legislation:**

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