



Church of Scotland (Property and Endowments) (Amendment) Act 1933

1933 CHAPTER 44 23 and 24 Geo 5

An Act to amend the Church of Scotland (Property and Endowments) Act, 1925, to make further provision with regard to the properties and endowments of the Church of Scotland, and for purposes connected therewith. [28th July 1933]

Modifications etc. (not altering text)

C1 The “principal Act” is the [Church of Scotland \(Property and Endowments\) Act 1925 \(c. 33\)](#)

1 Amendments of principal Act 15 & 16

The following paragraph shall be substituted for paragraph (g) of subsection (1) of section thirty-four of the ^{M1}Church of Scotland (Property and Endowments) Act, 1925 (hereinafter referred to as the “principal Act”):—

“(g) the statutory properties and endowments of the parish transferred to the General Trustees under or by virtue or in pursuance of this subsection shall be held by the General Trustees for the same ends, uses and purposes as those for which they were held by trustees or other persons in whom they vested prior to their being transfred, or, if the General Assembly shall by Act of Assembly at any time so direct, shall be sold or otherwise disposed of, and the proceeds shall be held and applied by the General Trustees (or by any body to whom the General Assembly may delegate or may have delegated the necessary powers) in accordance with the provisions of section thirtysix of this Act.

Provided that no ground used as a burial ground shall be put to any other use.”

Modifications etc. (not altering text)

C2 The text of ss. 1 and 16 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Status: Point in time view as at 28/11/2004.

Changes to legislation: There are currently no known outstanding effects for the Church of Scotland (Property and Endowments) (Amendment) Act 1933. (See end of Document for details)

Marginal Citations

M1 Geo. 5. c.33. s.34.

2 Transfer of churchyards attached to parishes quoad sacra, and parliamentary churches.

- (1) Notwithstanding anything contained in paragraph (g) of subsection (1) of section thirty-four of the principal Act, and without prejudice to anything therein contained, the trustees or other persons by whom any churchyard forming part of the statutory properties and endowments of a parish quoad sacra or connected with a parliamentary church is held, or the General Trustees if any such churchyard shall have become vested in them, may by notice in writing require the local authority to take over such churchyard, and as from the date of such notice such churchyard shall, without the necessity of any further conveyance, be transferred to and vested in the local authority, and the provisions of section thirty-two of the principal Act shall apply to any churchyard so transferred in like manner as they apply to a churchyard transferred under that section.
- (2) For the purposes of this section the expression “local authority” shall as regards any churchyard, mean the council [^{F1}constituted under section 2 of the Local Government etc. (Scotland) Act 1994 within whose area] the churchyard is situated, . . . ^{F2}

Textual Amendments

- F1** Words in s. 2(2) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para.18**; S.I. 1996/323, **art.4**
- F2** Words repealed by **Local Government (Scotland) Act 1973 (c. 65), Sch. 29**

3 Non-statutory properties and endowments of quoad sacra parishes.

- (1) The trustees or other persons in whom any properties or endowments, whether heritable or moveable, of a parish quoad sacra, other than the statutory properties and endowments of the parish, are vested shall, if so required by the General Trustees, convey or transfer such properties and endowments (hereinafter referred to as non-statutory properties and endowments) or any of them in the option of such Trustees or other persons as aforesaid to the General Trustees or to any other body authorised for the purpose by the General Assembly, or to a permanent body of local trustees, and on their so conveying or transferring the same, such trustees or other persons as aforesaid shall be thereby fully exonerated and discharged of the trust under which the said properties and endowments were held without the necessity of any further release, discharge or exoneration.
- (2) The General Trustees shall as regards any non-statutory properties and endowments vested in them, and any trustees or other persons shall as regards any such properties or endowments vested in them, have power, subject to the provisions of any deed of trust, conveyance or other deed applicable thereto [^{F3}and to the approval of the presbytery of the bounds], to sell or otherwise dispose of such properties and endowments and [^{F4}the proceeds thereof] shall be applied for such ends, uses and purposes as the General Assembly [^{F5}or any body to which the General Assembly may delegate the necessary powers] may direct:
Provided always that—

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- (i) the consent of the General Assembly [^{F5}or any body to which the General Assembly may delegate the necessary powers] . . . ^{F6} shall be required to the sale or disposal of any such properties and endowments, except where by the terms of the deed of trust, conveyance or other deed under which any such properties and endowments are held the General Trustees or any trustees or other persons holding the same have power to sell or to dispose thereof without such consent; and
- (ii) where it is proposed under the authority of the General Assembly [^{F5}or any body to which the General Assembly may delegate the necessary powers] to transfer the statutory properties and endowments of a parish quoad sacra to a new area, the non-statutory properties and endowments of such parish, or the proceeds of the sale of the same, if sold, may [^{F7}, with the like approval of the presbytery of the bounds and of the kirk session of the parish concerned,] also be transferred along with the statutory properties and endowments of such parish to such new area.

Textual Amendments

- F3** Words in s. 3(2) repealed (S.) (in force as mentioned in s. 1, Sch. para. 1(2)(3) of the 1995 repealing Act) by 1995 c. xi, s. 1, **Sch. para. 2(2)**
- F4** In s. 3(2) Words beginning “to apply the proceeds” and ending “fully met” repealed and replaced (S.) (in force as mentioned in s. 1, Sch. para. 1(2)(3) of the 1995 amending Act) by 1995 c. xi, s. 1, **Sch. para. 2(2)**
- F5** Words inserted by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c. i.), Sch.
- F6** Words repealed by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c. i.), Sch.
- F7** Words in s. 3(2) proviso (ii) repealed (S.) (in force as mentioned in s. 1, Sch. para. 1(2)(3) of the 1995 repealing Act) by 1995 c. xi, s. 1, **Sch. para. 2(2)**

4 Chapels of ease and mission churches.

Any trustees or other persons in whom any chapel of ease, mission church or church hall is vested or the General Trustees if the same shall be vested in them shall have power, subject to the provisions of any deed of trust, conveyance or other deed applicable thereto, to sell or otherwise dispose of the same and to apply the proceeds thereof for such ends, uses and purposes as the General Assembly [^{F8}or any body to which the General Assembly may delegate the necessary powers] may direct. Provided always that the consent of the General Assembly [^{F8}or any body to which the General Assembly may delegate the necessary powers] . . . ^{F9} shall be required to the sale or disposal thereof, except where by the terms of the deed of trust, conveyance or other deed under which any chapel of ease, mission church or church hall is held the trustees or other persons or the General Trustees holding the same have power to sell or to dispose thereof without such consent.

Textual Amendments

- F8** Words inserted by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c. i.), Sch.
- F9** Words repealed by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c. i.), Sch.

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5 Parliamentary churches and manses, &c.

^{M2}Notwithstanding anything in the Act 5 George IV, chapter 90, or in the principal Act, the General Trustees shall, subject to the consent of the General Assembly [^{F10}or any body to which the General Assembly may delegate the necessary powers], . . . ^{F11}, have power, subject to the provisions of any deed of trust, conveyance or other deed applicable thereto, to sell or otherwise dispose of any parliamentary church or manse, or any other subjects connected therewith vested in them under section twenty-three of the principal Act and to apply the proceeds thereof for such ends, uses and purposes as the General Assembly [^{F10}or any body to which the General Assembly may delegate the necessary powers] may direct. Provided always that no ground used as a burial ground shall be put to any other use.

Textual Amendments

- F10** Words inserted by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c. i.), Sch.
- F11** Words repealed by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c. i.), Sch.

Marginal Citations

- M2** 1824 c. 90.

6 Power to dispose of certain churches and manses erected under the Act of 1844.

Notwithstanding anything contained in the titles under which any of the churches or manses of the parishes quoad omnia referred to in section twenty-four of the principal Act and specified in the Eighth Schedule thereto are held, the General Trustees shall, upon the same becoming vested or having become vested in them, in terms of the said section of the principal Act, have power, subject to the consent of the General Assembly [^{F12}or any body to which the General Assembly may delegate the necessary powers], . . . ^{F13}, to sell or otherwise dispose of any of the said churches or manses or any glebes or other subjects connected therewith, so far as such glebes or other subjects shall be vested in the General Trustees, and the General Trustees shall apply the proceeds thereof [^{F14}in the first place to meet the proper requirements of the parish as such requirements may be determined by the General Assembly, or by any body to which the General Assembly may delegate the necessary power, and any remainder after these requirements have been fully met shall be applied] for such ends, uses and purposes as the General Assembly [^{F12}or any body to which the General Assembly may delegate the necessary powers] may direct: Provided always that no ground used as a burial ground shall be put to any other use.

Textual Amendments

- F12** Words inserted by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c. i.), Sch.
- F13** Words repealed by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c. i.), Sch.
- F14** Words in s. 6 repealed (S.) (in force as mentioned in s. 1, Sch. para. 1(2)(3) of the 1995 repealing Act) by 1995 c. xi, s. 1, **Sch. para. 2(3)**

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7 Suppression or union of parishes.

Notwithstanding anything contained in any Act of Parliament, decree of the Court of Session or Court of Teinds, or deed of constitution or in the titles, deeds or certificates relating to any parish quoad sacra or any parish quoad omnia included in the Eighth Schedule to the principal Act, the General Assembly or any body to which the General Assembly may have delegated the necessary powers may, by Act of Assembly or by resolution of such body, suppress any such parish or alter or extend the bounds of any such parish or unite any such parish with any other parish or parishes, and on the suppression of any such parish quoad sacra or quoad omnia the area or district thereof shall be united to and form part of such other parish or parishes as the General Assembly or such body as aforesaid (as the case may be) may direct; or if no such direction is given, such area or district shall be reunited to and form part of the parish from which it was disjoined on the erection of the parish suppressed, or where such area or district was disjoined from more than one parish then the several parts thereof shall be reunited to and form parts of the parishes from which they were respectively so disjoined:

Provided that—

- (i) the consent of the minister of any such parish who was appointed thereto prior to the passing of the principal Act shall be necessary to any suppression of that parish or to any union thereof or of any part thereof with any other parish or parishes, or to any union therewith of any part of the area or district of any other parish; ^{F15} ...
- (ii) ^{F15} ...

Textual Amendments

F15 Words in s. 7 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 para. 17(2), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

8 Application of properties and endowments on suppression or union of quoad sacra parishes.

Upon the suppression of any parish quoad sacra or of any parish quoad omnia included in the Eighth Schedule to the principal Act, or upon the alteration or extension of the bounds of such parish or the uniting of the same with any other parish or parishes by the General Assembly or by such body as aforesaid, whether such suppression or uniting shall have taken place prior to the commencement of this Act or shall take place at any date subsequent thereto, the following provisions shall have effect:—

- (1) Any obligation by any third party contained in any bond or other deed or document representing or making provision for part or the whole of the statutory endowments of the parish being a parish quoad sacra ^{F16} ..., shall not be prejudiced or affected by such suppression or union or alteration or extension of bounds, but shall remain in full force and effect unless and until expressly discharged or otherwise dealt with by the General Trustees, and the statutory properties and endowments of the parish being a parish quoad sacra shall be held, or if the General Assembly [^{F17} or any body to which the General Assembly may delegate the necessary powers]^{F18} ... so direct, shall, subject to the provisions of any deed of trust, conveyance or other deed applicable thereto, be sold or otherwise disposed of by the General Trustees, and the income of such properties and endowments or the proceeds thereof, if sold or otherwise disposed of as well as the income of such proceeds, shall be applied by the General Trustees [^{F19}, subject to the provisions of section thirty-six of the principal Act,] for such ends, uses

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and purposes as the General Assembly [F17 or any body to which the General Assembly may delegate the necessary powers] may direct.

Provided always that—

- (a) Any bond of annual rent or other heritable security permanently provided or secured for the maintenance of the church or manse of any parish quoad sacra shall, if such church or manse is sold or otherwise disposed of, be discharged by the General Trustees as regards the subject so sold or disposed of, quoad the obligation for such maintenance, unless the debtor in such bond or other heritable security consents to such obligation remaining in full force and effect; but that without prejudice to any obligations for payment of stipend or otherwise contained in such bond of annual rent or other heritable security such as aforesaid, or for the maintenance of any church or manse remaining unsold or undisposed of and falling to be retained for any ecclesiastical purpose; and
 - (b) no ground used as a burial ground shall be put to any other use:
- (2) The non-statutory properties and endowments (if any) of the parish being a parish quoad sacra may, subject to any provisions applicable thereto contained in any deed of trust, conveyance or other deed relating to any such non-statutory property or endowment, be sold or otherwise disposed of and the income of such properties and endowments and the proceeds thereof, if sold or otherwise disposed of as well as the income of such proceeds, shall be applied by the trustees or other person in whom the same may then be vested for behoof of the parish or district concerned, or by the General Trustees, if the same shall then have become vested in them, [F20: in the first place to meet the proper requirements of the parish as such requirements may be determined by the General Assembly, or by any body to which the General Assembly may delegate the necessary power, and any remainder after these requirements have been fully met shall be applied] for such ends, uses and purposes as the General Assembly [F17 or any body to which the General Assembly may delegate the necessary powers] may direct. Provided always that the consent of the General Assembly [F17 or any body to which the General Assembly may delegate the necessary powers]F18 ... shall be required to the sale or disposal of any such properties and endowments, except where by the terms of the deed of trust, conveyance or other deed under which any such properties and endowments are held the General Trustees or any trustees or other persons holding the same have power to sell or to dispose thereof without such consent:
- (3) Without prejudice to the provisions of section five of this Act, where the church or manse in the parish being a parish quoad sacra is a parliamentary church or manse, such church or manse and any other subjects connected therewith and situated within the parish shall after the transfer thereof to the General Trustees under the principal Act be held by the General Trustees, or if the General Assembly [F17 or any body to which the General Assembly may delegate the necessary powers]F18 ... so direct, shall, subject to the provisions of any deed of trust, conveyance or other deed applicable thereto, be sold or otherwise disposed of by the General Trustees and the proceeds thereof shall be applied for such ends, uses and purposes as the General Assembly [F17 or any body to which the General Assembly may delegate the necessary powers] may direct. Provided always that no ground used as a burial ground shall be put to any other use.

Textual Amendments

F16 Words in s. 8(1) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 para. 17(3), [Sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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- F17** Words inserted by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c. i.), Sch.
- F18** Words repealed by Church of Scotland (Property and Endowments) Amendment Order Confirmation Act 1978 (c. i.), Sch.
- F19** Words in s. 8(1) repealed (S.) (in force as mentioned in s. 1, Sch. para. 1(2)(3) of the 1995 repealing Act) by 1995 c. xi, s. 1, **Sch. para. 2(4)**
- F20** Words in s. 8(2) repealed (S.) (in force as mentioned in s. 1, Sch. para. 1(2)(3) of the 1995 repealing Act) by 1995 c. xi, s. 1, **Sch. para. 2(4)**

9 Rights of superiors and others.

^{F21}(1)

^{F21}(2)

(3) Before selling or otherwise disposing of the ground or any part thereof on which any church or manse included in the Tenth Schedule to the principal Act as extended by section fifteen of this Act has been erected, the General Trustees shall give to any [^{F22}person] whose lands adjoin such ground or part and by whose predecessor in title such ground or part was originally granted or disposed without valuable consideration for the erection of the church or manse, an opportunity to purchase ^{F23}... such ground or part ^{F24} ...

[^{F25}(4) Where part of the lands which adjoin as is mentioned in subsection (3) above are conveyed, then on registration of the conveyance that subsection shall cease to afford a right of pre-emption to any owner of the part conveyed unless in the conveyance it is provided that the subsection shall instead cease to afford such a right to any owner of the part retained (in which case the subsection shall apply accordingly).

(5) The Scottish Ministers may by order made by statutory instrument make provision as to the procedures to be followed for the purposes of subsection (3) above.

(6) Without prejudice to the generality of subsection (5) above, any such order may include provision—

- (a) as to how a price is to be fixed; and
- (b) for any case where there is at any time, as regards the ground or part, more than one person to whom an opportunity to purchase must be afforded under subsection (3) above.]

Textual Amendments

- F21** S. 9(1)(2) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 para. 17(4)(a), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2; S.S.I. 2003/456, art. 2
- F22** Words in s. 9(3) substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **Sch. 12 para. 17(4)(b)(i)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F23** Words in s. 9(3) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 para. 17(4)(b)(ii), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F24** Words in s. 9(3) repealed (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), **Sch. 15** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F25** S. 9(4)-(6) inserted (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), **ss. 108, 129(4)** (with ss. 119, 121); S.S.I. 2003/454, art. 2(2)

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F26¹⁰ Vesting of stipends of ministers of burgh churches, &c.

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Textual Amendments

F26 S. 10 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 para. 17(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

F27¹¹ Vesting of glebe feu-duties, &c.

.....

Textual Amendments

F27 S. 11 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 para. 17(5), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

12 General Assembly may specify parish church.

Where in any parish, parochial district or area as defined by the General Assembly, or by any body to which the General Assembly may have delegated or may hereafter delegate the necessary powers, there are two or more separate churches or benefices, it shall be competent for the General Assembly to declare that such one of the churches within the parish, district or area concerned as the General Assembly may specify shall be deemed to be the church of the parish, and that the minister and elders or kirk session of such church shall be deemed to be the minister and elders or kirk session thereof for the purposes of any Act, Act of Sederunt, trust deed, scheme of administration or other public or private instrument, deed or document having reference to the minister or to the elders or to the kirk session (as the case may be) of the parish as trustee or trustees ex officio, and, where the General Assembly shall have so declared, the church so specified shall be deemed to be the church and the minister and elders or the kirk session thereof for the time being shall be deemed to be the minister and elders or kirk session (as the case may be) for the purposes aforesaid.

F28¹³

Textual Amendments

F28 S. 13 repealed (S.) (1.8.1995) by [1995 c. 7](#), ss. 14(2), 15(2), **Sch.5** (with ss. 9(3)(5)(7), 13, 14(3))

14 Appointment of interim chairman or vice-chairman of General Trustees during a vacancy.

In the event of the death, resignation or incapacity of the chairman or vice-chairman of the General Trustees between the close of one General Assembly and the meeting of the next General Assembly, the General Trustees are hereby authorised to appoint an interim chairman or vice-chairman (as the case may be) until the first meeting of

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the General Assembly occurring thereafter, or in the case of incapacity such earlier date as may be specified.

15 Amendment of principal Act with regard to parliamentary churches.

Section twenty-three of and the Tenth Schedule to the principal Act shall apply to the following churches in like manner in all respects as if they were mentioned in the said schedule, viz.:—Muckairn, Kilmeny and Salen, in the county of Argyll; Rothiemurchus and Inch in the county of Inverness; and Deerness, N. Ronaldshay and Sandwick, in the county of Orkney and Shetland; and accordingly the said schedule shall have effect as if the words “manse only” wherever they occur were omitted.

16 Mortifications and endowments in certain parishes quoad omnia.

The following section shall be substituted for section twenty-five of the principal Act:

Where in the case of a parish quoad omnia (not being one of the parishes quoad omnia mentioned in the Eight Schedule to this Act) there exists any mortification or other endowments 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 mortifications 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 other made by the Commissioner under this section shall not take effect unless or until the benefice shall have become actually vacant after such passing.”

Modifications etc. (not altering text)

- C3** The text of ss. 1 and 16 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

17 Amendment of principal Act, s. 44.

Section forty-four of the principal Act in so far as it empowers the Secretary of State to give direction with respect to the preservation of books, records or documents, shall apply in any case where the Secretary of State is satisfied that the powers and duties of the heritors of a parish have been extinguished, notwithstanding that intimation of such extinction may not have been made by the clerk to the heritors of the parish in pursuance of the said section.

18 Interpretation.

In this Act, unless the context otherwise requires, the expression “the Church” means the Church of Scotland as now constituted by the Union of the said Church with the

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United Free Church of Scotland on the second day of October 1929; the expression “The General Assembly” means the General Assembly of the said Church as now so constituted; the expression “the statutory properties and endowments of the parish” has the meaning assigned to it in section thirty-four of the principal Act; the expression “parliamentary church or manse” means any church or manse mentioned in the Tenth Schedule to the principal Act, together with any land whether described as churchyard, glebe or otherwise, connected with any such church or manse; and other expressions have the like meaning as in the principal Act.

19 Citation.

This Act may be cited as the Church of Scotland (Property and Endowments) Amendment Act, 1933 and the principal Act and this Act may be cited as the Church of Scotland (Property and Endowments) Acts 1925 and 1933.

Status:

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Changes to legislation:

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