



# Cathedrals Measure 1963

## 1963 No. 2

### PROVISIONS AS TO PROPERTY

#### **15 Transfer of land vested in a dignitary to dean and chapter.**

- (1) Where at the passing of this Measure any land is vested for an estate in fee simple in a dean or canon as a corporation sole, being a dean or canon of a dean and chapter cathedral, that land shall by virtue of this section and without any conveyance, assignment, transfer or other assurance vest in the dean and chapter of that cathedral:

Provided that the vesting of any land by virtue of this section shall not affect any previously existing trust or contract or any mortgage or other charge affecting the land.

- (2) Where at the passing of this Measure the Church Commissioners hold any moneys on behalf of a dean or canon of a dean and chapter cathedral, being the proceeds of any sale of land previously vested for an estate in fee simple in the dean or canon as a corporation sole, the Church Commissioners shall hold those moneys on behalf of the dean and chapter of that cathedral.

#### **16 Transfer to cathedral chapter of property vested in provosts.**

- (1) Where at the passing of this Measure a church, churchyard, house of residence or any glebe land is vested for an estate in fee simple in the provost of a parish church cathedral as the incumbent of a benefice, the church, churchyard, house, or glebe land together with any easements, rights or privileges annexed thereto, shall by virtue of this section and without any conveyance, assignment, transfer or other assurance vest in the cathedral chapter of that cathedral:

Provided that the vesting of property by virtue of this section shall not affect any previously existing trust or contract or any mortgage or other charge affecting the property.

- (2) The last foregoing subsection shall apply in relation to property vested in the dean of Truro as incumbent of the benefice of St. Mary in Truro as it applies in relation to property vested in a provost with the substitution of a reference to the dean and chapter of the cathedral church of Truro for the reference to the cathedral chapter.

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**Modifications etc. (not altering text)**

**C1** Ss. 16, 17, 27 extended by [Dioceses Measure 1978 \(No. 1, SIF 21:3\)](#), [s. 22\(2\)](#)

**17 Provisions as to property of benefices of parish church cathedrals.**

- (1) The income which at the passing of this Measure is the endowment income of a benefice the parish church of which is a parish church cathedral shall form part of the capitular revenues of that cathedral:

Provided that nothing in this subsection shall affect any charge to which that income is subject at the passing of this Measure.

- (2) Any sum which before the passing of this Measure has been appropriated under paragraph (b) of section three or paragraph (b) of subsection (2) of section four of the <sup>M1</sup>Benefices (Stabilization of Incomes) Measure 1951 to a benefice the parish church of which is a parish church cathedral shall be treated as appropriated to the cathedral chapter of that cathedral; [<sup>F1</sup>and if at any time any part of any sum which has been so appropriated is expended for the benefit of that cathedral, the annual sum or sums payable to the cathedral chapter by the Commissioners shall be reduced by the proportion which the amount so expended bears to the total amount held to the account of that chapter by the Commissioners.]
- (3) Where at the passing of this Measure any capital moneys are held by the Church Commissioners to the account of a benefice the parish church of which is a parish church cathedral those moneys shall be held by them to the account of the cathedral chapter.
- (4) Any order made under section twelve of the <sup>M2</sup>Pastoral Reorganisation Measure 1949 (which enables the Church Commissioners by order to divert part of the endowment income of a benefice to the diocesan stipends fund) and any Order in Council made under the Union of Benefices Measures 1923 to 1952 and section six of the <sup>M3</sup>Diocesan Stipends Funds Measure 1953 (which section enables the Church Commissioners by scheme confirmed by Order in Council to hold part of the endowment income of a benefice for the benefit of the diocesan stipends fund) shall, if in force at the passing of this Measure, cease to have effect so far as it diverts or transfers any part of the endowment income of a benefice the parish church of which is a parish church cathedral.
- (5) If any question arises as to what constitutes the endowment income of a benefice for the purposes of this section or as to the amount of that income, that question shall be determined by the Church Commissioners, whose decision shall be final.
- (6) This section shall apply in relation to the benefice of St. Mary in Truro as it applies in relation to a benefice the parish church of which is a parish church cathedral with the substitution of a reference to the dean and chapter of the cathedral church of Truro for the reference to the cathedral chapter.

**Textual Amendments**

**F1** Words substituted by [Endowments and Glebe Measure 1976 \(No. 4\)](#), [Sch. 5 para. 3](#)

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**Modifications etc. (not altering text)**

**C2** Ss. 16, 17, 27 extended by [Dioceses Measure 1978 \(No. 1, SIF 21:3\)](#), s. 22(2)

**Marginal Citations**

**M1** 1951 No. 5.

**M2** 1949 No. 3.

**M3** 1953 No. 2.

**18 Moneys standing to credit of repair accounts of benefices of parish church cathedrals.**

Where at the passing of this Measure any sums of money are standing to the credit of any repair account established under the Ecclesiastical Dilapidations Measures 1923 to 1951 for a benefice the parish church of which is a parish church cathedral, the Church Commissioners shall have power—

- (a) to hold those sums on behalf of the cathedral chapter to be used for the repair of such property vested in the cathedral chapter as the Church Commissioners may agree; or
- (b) to transfer those sums to the fund established under paragraph (b) of subsection (2) of section twenty-seven of this Measure in relation to that cathedral church.

**19 Schemes for transfer of property to Church Commissioners and capitular bodies.**

- (1) The Church Commissioners with the consent of the administrative body of the cathedral church concerned and also, if the scheme transfers property vested in a dean, provost or canon, with the consent of that dean, provost or canon, may prepare and submit to Her Majesty in Council for confirmation a scheme providing—
  - (a) for the transfer to the Church Commissioners of the whole or part of the property of any capitular body (other than the cathedral church and the buildings belonging thereto) for such consideration and on such terms as the Church Commissioners think fair and reasonable, including the extinguishment of any right of the Church Commissioners to receive any part of the income or property of that capitular body;
  - (b) for the transfer of property by the Commissioners to any capitular body either in consideration of a reduction of any annual sum payable by the Commissioners to the capitular body or in consideration of the payment of any sum of money or the transfer of any property to the Commissioners or for no consideration;
  - (c) for the transfer to the capitular body of a cathedral church of any property acquired after the passing of this Measure as a corporation sole by a dean or canon thereof or by a provost thereof (whether as provost or incumbent).
- (2) A scheme under the last foregoing subsection may—
  - (a) amend or repeal the provisions of any other scheme made under any Act or Measure relating to the property of the cathedral church concerned, other than provisions forming part of the constitution and statutes of the cathedral church;

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- (b) contain such incidental, consequential or supplementary provisions as may be necessary or expedient for giving full effect to the scheme.
- (3) The following provisions of the <sup>M4</sup>Ecclesiastical Commissioners Act 1840 (which relate to the making, publishing and registering of Orders in Council), that is to say—  
sections eighty-four and eighty-five,  
section eighty-six, as modified by section twenty-four of the <sup>M5</sup>Church Property (Miscellaneous Provisions) Measure 1960 and  
sections eighty-eight and eighty-nine,  
shall apply to an Order in Council confirming a scheme under this section as they apply to an Order in Council confirming a scheme under that Act.

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**Marginal Citations**

**M4** 1840 c. 113.

**M5** 1960 No. 1.

**20 Acquisition and disposal of land by cathedral bodies.**

- (1) A capitular body, dean, provost or canon shall, subject to the provisions of this section, have the following powers, that is to say:—
- (a) power to sell, grant a lease of, exchange, mortgage or charge land, and to dedicate land for the purposes of a highway;
  - (b) power to acquire land by gift inter vivos or by will, and
  - (c) power to acquire land required for providing access to land owned by the capitular body, dean, provost or canon, as the case may be, or for improving the amenities of any such land,
- and a capitular body shall, subject to the said provisions, also have power to acquire land—
- (i) for improving the amenities of the cathedral church;
  - (ii) for any ecclesiastical, educational or other charitable purpose connected with the cathedral church or any parish of which the cathedral church or any part thereof is the parish church; and
  - (iii) for the provision of houses to be occupied by persons engaged or to be engaged in duties connected with the cathedral church.
- (2) Before exercising any powers conferred under the last foregoing subsection, the capitular body, dean, provost or canon shall obtain the consent of the Church Commissioners and also in the case of the disposal, leasing, mortgaging or charging of a house of residence—
- (a) the consent of the bishop or during a vacancy of the see the guardian of the spiritualities;
  - (b) the consent of the dean, provost or residentiary canon who normally occupies the house except during a vacancy in the office of the dean, provost or residentiary canon, as the case may be; and
  - (c) where the house is allocated for the use of the holder of a dignity the right of presentation to which is vested in Her Majesty, the consent of Her Majesty;

Provided that no consent shall be required under this sub-section for:—

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- (i) the grant of a lease to a clerk in Holy Orders holding office in the cathedral church or to any person employed in connection with the cathedral church;
  - (ii) the acquisition of land by a gift inter vivos or by will;
  - (iii) any transaction for which the sanction of an order is required under [F<sup>2</sup>section 36 of the Charities Act 1993]; or
  - (iv) any transaction relating to land which at the passing of this Measure is held by the dean and chapter of the cathedral church of St. Paul in London as part of the Tillingham estate.
- (3) The Church Commissioners may by order except from the provisions of the last foregoing subsection transactions relating to land forming part of an estate specified in the order or transactions of a class so specified or relating to property of a class so specified.
  - (4) The powers conferred by this section may be exercised notwithstanding that the consideration for any transaction executed thereunder may not be the full consideration.
  - (5) The sealing by the Church Commissioners of any document under this section shall be conclusive evidence that all the requirements of this section with respect to the transaction to which the document relates have been complied with.
  - (6) A statement in a document sealed by the capitular body, dean, provost or canon, as the case may be, that the consent thereto of the Church Commissioners is not required under this section shall be sufficient evidence of that fact.

#### Textual Amendments

F<sup>2</sup> Words in S. 20(2)(iii) substituted (1.8.1993) by 1993 c. 10, ss. 98(1), 99(1), Sch. 6 para. 6(2)

## 21 Investment powers, etc., of capitular bodies.

- (1) Subject to the provisions of this section, the capitular body of any cathedral church shall have the following powers of investing moneys which form part of the endowment of the cathedral church (not being moneys to which section twenty-four of this Measure applies) that is to say—
  - (a) power to invest in the acquisition of land;
  - (b) power to invest in any investment fund or deposit fund constituted under the <sup>M6</sup>Church Funds Investment Measure 1958; and
  - (c) the same powers of investing as a trustee has under section one of the <sup>M7</sup>Trustee Investments Act 1961;and the powers of the capitular body under paragraph (c) of this subsection shall be exercisable in the like manner and subject to the like conditions as the powers of a trustee are exercisable under the said Act.
- (2) Subject to the provisions of this section, the capitular body of any cathedral church may from time to time pay to the Church Commissioners any moneys in the hands of the capitular body which form part of the endowment of the cathedral church, and the Church Commissioners—
  - (a) shall hold any moneys paid to them under this subsection free from any trust subject to which the capitular body held the moneys;

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- (b) shall pay interest on those moneys to the capitular body at such rate as the Church Commissioners may from time to time determine; and
  - (c) shall appropriate to the endowment of the cathedral church a sum equal to the moneys held by them under this subsection,
- (3) The capitular body of any such cathedral church shall before—
- (a) investing any moneys under paragraph (b) or paragraph (c) of subsection (1) of this section, or
  - (b) selling any investment other than land,
- obtain the advice of the Church Commissioners and shall before investing any moneys in the acquisition of land obtain the like consents as are required under the last foregoing section for the sale of any land by a capitular body.
- (4) A capitular body shall not be treated as having complied with the last foregoing subsection unless the advice of the Church Commissioners was given or has been subsequently confirmed in writing.
- (5) The advice or consent of the Church Commissioners given under the foregoing provisions of this section shall be deemed to be proper advice for the purposes of subsections (2) and (3) of section six of the <sup>M8</sup>Trustee Investments Act 1961.
- (6) The capitular body of any cathedral church may with the agreement of the Church Commissioners place any moneys on deposit with the Church Commissioners, and the Church Commissioners—
- (a) shall hold any moneys placed on deposit with them free from any trust subject to which the capitular body held the moneys;
  - (b) shall pay interest on those moneys to the capitular body at such rate as the Church Commissioners may from time to time determine; and
  - (c) when requested so to do shall repay those moneys or part thereof to the capitular body;
- so, however, that any moneys repaid under paragraph (c) of this subsection and any interest paid under paragraph (b) thereof shall be subject to the trusts to which the moneys and the interests thereon were subject before being placed on deposit as aforesaid.

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**Modifications etc. (not altering text)**

- C3** S. 21 extended (1.11.1993) by 1993 c. 28, ss. 9, 40, **Sch. 2 para. 8(3)(b)**; S.I. 1993/2134, **art. 5**
- C4** S. 21(1)(a) extended by Leasehold Reform Act 1967 (c. 88), **s. 31(3)**
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**Marginal Citations**

- M6** 1958 No. 1.
- M7** 1961 c. 62.
- M8** 1961 c. 62.

## 22 Provisions as to proceeds of land forming part of endowment of cathedral church.

Where any land which forms part of the endowment of a cathedral church is sold or a lease of any such land is granted, the proceeds of the sale or any premium obtained on the grant of the lease shall be treated as part of the endowment of the cathedral church.

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## **23 Use of moneys forming part of endowment of cathedral church.**

The capitular body of any cathedral church may, with the consent of the Church Commissioners, use any moneys forming part of the endowment of the cathedral church (other than moneys to which the next following section applies) for the improvement or development of any property in which the capitular body owns an interest, other than the cathedral church and buildings ancillary thereto.

### **Modifications etc. (not altering text)**

**C5** S. 23 extended by Leasehold Reform Act 1967 (c. 88), s. 31(3)

**C6** S. 23 extended (1.11.1993) by 1993 c. 28, ss. 9, 40, Sch. 2 para. 8(3)(b); S.I. 1993/2134, art. 5

## **24 Provision as to moneys held by Church Commissioners on behalf of a cathedral church.**

Where—

- (a) the Church Commissioners hold on behalf of the capitular body of any cathedral church any moneys which form part of the endowment of that cathedral church (whether held by them at the passing of this Measure or paid to them under subsection (2) of section twenty-one of this Measure) or
- (b) any moneys are appropriated to any cathedral chapter by virtue of subsection (2) of section seventeen of this Measure,

the Church Commissioners may, if the administrative body of the cathedral church requests them so to do, make payments out of those moneys—

- (i) for the improvement or development of any property in which the capitular body owns an interest, other than the cathedral church and buildings ancillary thereto;
- (ii) for any purpose for which grants may be made by the Church Commissioners under section thirty-two of this Measure; or
- (iii) for investment in the acquisition of land.

## **25 Use of endowment capital for emergency repairs to cathedral church.**

Where the Church Commissioners and the administrative body of any cathedral church are satisfied that an emergency has arisen which justifies the expenditure of—

- (a) any moneys forming part of the endowment of the cathedral church, whether held by the capitular body or held by the Church Commissioners on behalf of the capitular body, or
- (b) any moneys which are appropriated to the cathedral church by virtue of subsection (2) of section seventeen of this Measure,

for the repair of the cathedral church or buildings ancillary thereto, the Church Commissioners may, at the request of the administrative body, consent to the expenditure of those moneys for that purpose or, as the case may be, make payments out of those moneys for that purpose:

Provided that any sum expended under this section shall be replaced by the administrative body of the cathedral church within five years from the date on which it is expended, in such manner as may be agreed between the Church Commissioners and the administrative body.

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## **26 Allocation of houses for use of cathedral clergy.**

The administrative body of any cathedral church may allocate for the use of any person holding an ecclesiastical office in connection with the cathedral, as a residence from which to perform the duties of that office, any house in which the capitular body owns an interest.

## **27 Plans for inspection and repair of cathedral property.**

- (1) The administrative body of every cathedral church shall, within two years from the passing of this Measure, prepare and submit to the Church Commissioners for their approval a plan to provide for the periodic inspection and repair of all buildings, other than the cathedral church and buildings ancillary thereto, which the capitular body is liable to repair, being buildings situated in the cathedral close or allocated as residences to persons holding office in the cathedral church.
- (2) Any plan prepared under the last foregoing subsection—
  - (a) shall provide for the inspection of the buildings to which the plan applies by an architect or, where appropriate, by a surveyor and for the making with respect to each building inspected of a report by the architect or surveyor who has inspected it which shall contain an estimate of the cost of carrying out such works of repair or maintenance as the architect or surveyor, as the case may be, thinks necessary;
  - (b) shall include arrangements for the repair and maintenance of the said buildings and for that purpose shall provide for the establishment of a fund and for the making of payments into that fund from the capitular revenues of the cathedral church;
  - (c) may contain such incidental, consequential or supplementary provisions as may be necessary or expedient for giving full effect to the plan.
- (3) Any such plan as aforesaid shall provide that any architect or surveyor who carries out any inspection thereunder shall be a person who has had experience in connection with the class of building which he is required to inspect under the plan.
- (4) Any plan prepared under this section may be varied by a subsequent plan approved by the Church Commissioners.

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### **Modifications etc. (not altering text)**

**C7** Ss. 16, 17, 27 extended by [Dioceses Measure 1978 \(No. 1, SIF 21:3\)](#), s. 22(2)



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