



Repair of Benefice Buildings Measure 1972

1972 No. 2

Repair of Benefice Buildings

2 **Meaning of repairs.** **E**

- (1) In this Measure “repairs”, in relation to a parsonage house, means such works of repair and replacement as are needed—
- (a) to keep in repair the structure and exterior of the buildings of the parsonage house, including doors, windows, drains, gutters and external pipes; and
 - (b) to keep in repair all walls, fences, gates, drives and drains of the parsonage house, other than those which some person other than the incumbent is wholly liable to repair;
 - (c) to keep in repair and proper working order—
 - (i) the installations in the parsonage house for the supply of water, gas and electricity, and for sanitation, including basins, sinks, baths and sanitary conveniences, and
 - (ii) the installations in the parsonage house for space heating or heating water, and
 - (iii) any fixtures fittings and appliances in the parsonage house (other than those mentioned in the preceding sub-paragraphs), if they belong to the benefice but not otherwise;

and includes works of interior decoration necessitated in consequence of such works as aforesaid.

(2) ^{F1}

- (3) In determining for the purposes of this Measure the standard of repair appropriate to any building of a benefice, regard shall be had to the age, character and prospective life of the building, and, in particular, in the case of a building included in a list under ^{F2}section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990], the special architectural or historic interest of the building.

Changes to legislation: There are currently no known outstanding effects for the Repair of Benefice Buildings Measure 1972, Cross Heading: Repair of Benefice Buildings. (See end of Document for details)

Textual Amendments

- F1** S. 2(2) repealed with saving by Endowments and Glebe Measure 1976 (No. 4), Sch. 6 para. 3, **Sch. 8**
- F2** Words in s. 2(3) substituted (1.1.2001) by virtue of 2000 Measure No. 1, s. 7, **Sch. 4 para. 2**;
Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

3 Periodic inspections by diocesan surveyors. **E**

- (1) It shall be the duty of the Board to cause an inspection to be made by a diocesan surveyor of all the buildings of each benefice in the diocese within an initial period of five years from the commencement of this Measure, and for subsequent such inspections to be made periodically at intervals not exceeding, in the case of any benefice, five years from the last such inspection thereof.
- (2) Where a new building of a benefice is provided and is not inspected within the initial period, the Board shall cause it to be inspected by a diocesan surveyor as soon as possible after it is provided and thereafter at intervals not exceeding five years.

4 Reports by diocesan surveyors. **E**

- (1) On every such inspection as aforesaid of the buildings of a benefice, the diocesan surveyor shall make a report to the Board—
 - (a) stating what repairs are required, specifying them in detail and estimating their cost, and stating whether they should be executed immediately or otherwise;
 - (b) specifying any repairs to a parsonage house which are in his opinion necessary by reason of damage caused or aggravated by any deliberate act of the incumbent or a previous incumbent or any default in his duties under section 13 of this Measure, and estimating the cost of executing those repairs or, in case of aggravation, the additional cost attributable to the act or default;
 - (c) stating whether any improvements to a parsonage house appear to him expedient and, if an estimate appears to him practicable and useful, estimating their cost;
 - (d) stating whether in his opinion a parsonage house should be replaced;
 - (e) stating whether any outbuilding of a parsonage house . . . ^{F3} appears to him to be superfluous and, if an estimate appears to him practicable and useful, estimating the cost of demolition;
 - (f) commenting on the state of the interior decoration of any parsonage house and the state of fixtures and things in any building of the benefice which belong to the benefice;
 - (g) advising on the respective amounts for which the buildings of the benefice should be insured under this Measure, and specifying any special risks to which they are liable.
- (2) Where a diocesan surveyor reports that any outbuilding of a parsonage house . . . ^{F3} appears to him to be superfluous, it shall not be necessary for him to specify what repairs to the building are required.
- (3) On the first inspection of the buildings of a benefice under this Measure, the diocesan surveyor shall attach to his report a list of the fixtures and things in any such building which belong to the benefice, and a list of the trees of a parsonage house which in his opinion (after taking such expert advice, if any, as he thinks fit) ought to be preserved,

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and on subsequent inspections he shall make such additions to and amendments of the lists as may be necessary.

- (4) The Board shall cause a copy of the report to be sent to the incumbent together with a notice stating his right to make representations and the date by which the representations must be made, which shall not be less than one month from the date on which the notice is sent.
- (5) The Board shall consider any representations duly made by the incumbent and, if the incumbent so desires, give him an opportunity of meeting the Board or (at the discretion of the Board) a committee or representative of the Board, and the Board may make by their members such inspections as they think fit and may obtain such professional or other advice as they may require.
- (6) If no representations are made within the period allowed by the notice, then on the expiration of that period, or if representations are made, after the consideration thereof, the Board shall confirm the report of the diocesan surveyor without variation or with such variation as the Board may in its discretion decide, and the Board shall thereupon notify the incumbent of any such variation, and references in the following provisions of this Measure to the report of the diocesan surveyor shall be construed as references to the report as confirmed:
Provided that, if the Board propose to vary the report otherwise than for the purpose of giving effect to representations of the incumbent, they shall give him an opportunity of making representations with respect to the proposal and the last preceding subsection shall apply to any such representations.
- (7) Where the report specifies any repairs under subsection (1)(b) in respect of the act or default of a previous incumbent, the last three subsections shall have effect as if the references to the incumbent included references to that previous incumbent or his personal representative.

Textual Amendments

F3 Words repealed with saving by [Endowments and Glebe Measure 1976 \(No. 4\)](#), Sch. 6 para. 3, [Sch. 8](#)

5 **Duty of Board to carry out repairs in report relating to parsonage house.** **E**

- (1) It shall be the duty of the Board—
 - (a) to commence within a period of 12 months from the date when the diocesan surveyor's report is confirmed all repairs specified in the report and relating to a parsonage house the execution of which is therein stated to be immediately necessary, and to complete them as soon as possible;
 - (b) to execute all other repairs so specified and relating to a parsonage house within such period as may be recommended in the report or, if no period is recommended, as the Board think expedient:

Provided that, if it appears to the Board and the bishop of the diocese that a parsonage house or a part thereof should be sold, exchanged or demolished, and for that reason it is not necessary or desirable to execute the repairs, or all the repairs, specified in relation thereto in the report of the diocesan surveyor, the Board may at any time within a period of six months from the date of the confirmation of the report, notify the incumbent that such repairs as are specified in the notice are not to be executed and giving the reasons therefor.

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- (2) A notice under the preceding subsection shall state the incumbent’s right to make representations and the date by which the representations must be made, which shall not be less than one month from the date on which the notice is sent; and the Board shall consider any representations duly made by the incumbent, which shall be limited to the question of what repairs are not to be executed, and subsection (5) of the last preceding section shall apply to their consideration of such representations.
- (3) The Board shall notify the incumbent of their decision, and the incumbent may, if not satisfied with the decision, appeal therefrom within one month from the notification thereof to the Commissioners, who shall decide the matter after consultation with the Board and the incumbent.
- (4) If the report of the diocesan surveyor states that any outbuilding of the parsonage house appears to be superfluous, the Board may at any time after the confirmation of the report, notify the incumbent that they intend to demolish the outbuilding, and the last preceding subsection shall apply to any such notice, and if there is no appeal or the notice is upheld, the Board may demolish the outbuilding.

6 F4 **E**

Textual Amendments
F4 S. 6 repealed with saving by [Endowments and Glebe Measure 1976 \(No. 4\)](#), Sch. 6 para. 3, **Sch. 8**

7 F5 **E**

Textual Amendments
F5 S. 7 repealed with saving by [Endowments and Glebe Measure 1976 \(No. 4\)](#), Sch. 6 para. 3, **Sch. 8**

8 Interim inspections and repairs. **E**

- (1) In addition to the periodic inspections required by the preceding provisions of this Measure, the Board may at any time cause an inspection of any building of a benefice or any part thereof to be made by a diocesan surveyor and a report made thereon.
- (2) If it appears to the Board, whether as a result of such inspection and report or otherwise, that any repairs to a parsonage house are necessary, they may execute those repairs: Provided that repairs which are not specified in such a report shall not be executed without the consent of the incumbent.
- (3) A report under this section relating to a parsonage house may specify such repairs and make such estimates as are mentioned in section 4(1)(b) of this Measure, and in that case subsections (4) to (7) of that section shall apply to that report.
- (4) F6

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Textual Amendments

F6 S. 8(4) repealed with saving by [Endowments and Glebe Measure 1976 \(No. 4\), Sch. 6 para. 3, Sch. 8](#)

9 Repairs to party walls etc. E

Where any party wall or fence of a parsonage house or any drive, drain or other appurtenance of a parsonage house is maintainable by the incumbent in common with other persons, and any works of repair or replacement are needed in respect thereof, the Board shall have power to act in place of the incumbent in making agreements with those other persons for the execution and financing of such repairs and for enforcing the liability of those persons in respect of such repairs.

10 Regulation of inspections, reports and repairs. E

A diocesan synod may by scheme provide for regulating—

- (a) inspections of buildings of a benefice by diocesan surveyors and the making of reports following on such inspections;
- (b) the execution of repairs to buildings of a benefice, including the supervision thereof by diocesan surveyors and otherwise, and any other matters required for securing efficiency and economy in such execution.

11 Powers of entry. E

For the purpose of carrying out any inspection or executing any repairs to a building of a benefice which the Board are required or authorised to carry out or execute under this Measure, it shall be lawful for a diocesan surveyor or any workmen or other persons employed by him or the Board or any person authorised by him or the Board to enter the building at all reasonable hours during the daytime:

Provided that, except where repairs are suddenly and urgently needed, the Board or the diocesan surveyor shall before exercising their powers under this section use their best endeavours to reach agreement with the incumbent as to the times at which the inspection is to be carried out or the repairs executed, and shall in default of such agreement give not less than fourteen days notice to the incumbent.

12 Insurance. E

(1) It shall be the duty of the Board—

- (a) to insure all the parsonage houses in their diocese against all such risks as are included in the usual form of houseowner's policy relating to buildings; . . . ^{F7}
- (b) ^{F8}

and such insurance shall be effected with the Ecclesiastical Insurance Office Ltd. or such other insurance office as may be selected by the Board ^{F9} . . .

(2) The Board shall make and prosecute all claims arising under any insurance policy effected under this section, and all moneys payable under any such policy shall be paid to the Board.

(3) If a liability in respect of damage to a parsonage house . . . ^{F7} arises under any such policy, and the insurance office elects to pay the insurance money instead of making

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good the damage at the expense of the office, the Board shall, . . . ^{F7}, make good the damage . . . ^{F7}:

Provided that—

- (a) the damage may be made good with such alterations as the Board may with the consent of the incumbent and [^{F10}after consulting the registered patron]determine;
- (b) the whole or part of the damage may, if the Board so determine with such consent [^{F11}and after such consultation]as aforesaid, be not made good.

(4) ^{F8}

(5) In this section, references to damage and the making good thereof shall include references to the destruction of the building in whole or in part and to the reinstatement thereof.

Textual Amendments

- F7** Words repealed with saving by Endowments and Glebe Measure 1976 (No. 4), Sch. 6 para. 3, **Sch. 8**
- F8** S. 12(1)(b)(4) repealed with saving by Endowments and Glebe Measure 1976 (No. 4), Sch. 6 para. 3, **Sch. 8**
- F9** Words in s. 12(1) omitted (1.1.2001) by virtue of 2000 Measure No. 1, s. 7 **Sch. 4 para. 3**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F10** Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 14**
- F11** Words inserted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 14**

Modifications etc. (not altering text)

- C1** S. 12(3) restricted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 34(5)(a)

13 Obligations and powers of incumbent in relation to parsonage house. **E**

- (1) The incumbent shall have a duty to take proper care of a parsonage house, being a duty equivalent to that of a tenant to use premises in a tenant-like manner.
- (2) The duties of the Board under this Measure in respect of repairs to parsonage houses shall not affect any liability of an incumbent, as owner, tenant or occupier of a parsonage house, to persons other than the Board, but the Board shall indemnify the incumbent in respect of any claim by any such person or any expense reasonably incurred by reason of any such liability, if and so far as the claim or expense arises out of the execution of repairs or a failure to execute repairs to the parsonage house and is not covered by an insurance policy effected under the last preceding section:
Provided that an incumbent shall not be under any liability to his successor in respect of any repairs or failure to execute repairs to a parsonage house.
- (3) The incumbent shall notify the Board of any repairs to a parsonage house appearing to him to be necessary and, in the case of repairs urgently required for reasons of safety or to prevent further damage or deterioration or to meet a liability to other persons, shall do so without delay.
- (4) Where the report of a diocesan surveyor, whether under section 4 or section 8 of this Measure, specifies any repairs to a parsonage house as necessary by reason of damage caused or aggravated by any deliberate act of the incumbent or a previous incumbent or any default in his duties under this section, the Board may, on completion of the repairs, by notice require the incumbent concerned or his personal representative to

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pay to them the whole or part of the cost certified by the diocesan surveyor to be attributable to the said act or default and, if the notice is not complied with, the Board may take proceedings for the enforcement thereof:

Provided that in any such proceedings it shall be open to the defendant to show that the cost so certified is not attributable to such act or default as aforesaid, or that the amount required to be paid exceeds the cost so attributable, and judgment may be given accordingly.

- (5) The incumbent may carry out as agent of the Board such repairs to a parsonage house, whether following an inspection by a diocesan surveyor or otherwise, as the Board may generally or specially authorise.

14 Parsonage house ceasing to be such. **E**

- (1) Where the Board [^{F12}is satisfied that a parsonage house may be sold or exchanged [^{F13}under Part 1 of the Church Property Measure 2018] without the consent of the Commissioners under [^{F14}section 3 of that Measure] or] is notified by the Commissioners that they have consented to the [^{F15}sale or exchange] of a parsonage house, or [^{F16}that the Commissioners are satisfied that any objection raised [^{F17} in accordance with section 5(1) of that Measure] ought not to prevent any such [^{F15}sale or exchange]], the duties of the Board under the preceding provisions of this Measure shall apply to that parsonage house to the following extent only:—
- (a) the Board shall keep the insurance of the parsonage house in force until the [^{F15}sale or exchange] is effected; and
 - (b) ^{F18}... The Board shall carry out such repairs thereto as they think necessary or desirable to facilitate the sale or exchange thereof; and
 - (c) so long as the parsonage house remains in occupation, the Board shall carry out such repairs as they think necessary for such occupation.
- (2) Where a parsonage house ceases, otherwise than in consequence of a [^{F19}sale or exchange] or proposals therefor, to be a parsonage house, the preceding provisions of this Measure so far as they relate to parsonage houses shall cease to apply thereto.
- (3) Nothing in this section shall affect any liability of the Board under subsection (2) of the last preceding section, or any liability of the incumbent or his personal representative under subsection (4) of that section or section 20(2) of this Measure, being a liability accrued before the preceding provisions of this section took effect in relation to the parsonage house.
- (4) References in this section to the sale and the exchange of a parsonage house shall, if it is held on lease, be construed as references to the sale and the exchange of the leasehold interest therein.

Textual Amendments

- F12** Words in s. 14(1) inserted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 2 para. 3**; S.I. 2005/2, Instrument made by Archbishops
- F13** Words in s. 14(1) inserted (1.3.2019) by Church Property Measure 2018 (No. 8), s. 53(2), **Sch. 1 para. 14(a)**; S.I. 2019/97, art. 2
- F14** Words in s. 14(1) substituted (1.3.2019) by Church Property Measure 2018 (No. 8), s. 53(2), **Sch. 1 para. 14(b)**; S.I. 2019/97, art. 2
- F15** Words in s. 14(1) substituted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 2 para. 3**; S.I. 2005/2, Instrument made by Archbishops

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- F16** Words in s. 14(1) substituted (1.1.2001) by 2000 Measure No. 1, s. 7, **Sch. 4 para. 4**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F17** Words in s. 14(1) substituted (1.3.2019) by Church Property Measure 2018 (No. 8), s. 53(2), **Sch. 1 para. 14(c)**; S.I. 2019/97, art. 2
- F18** Words in s. 14(1)(b) omitted (1.6.2005) by virtue of Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 2 para. 4**; S.I. 2005/2, Instrument made by Archbishops
- F19** Words in s. 14(2) substituted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 2 para. 5**; S.I. 2005/2, Instrument made by Archbishops

Changes to legislation:

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