



# Care of Cathedrals Measure 1990 (No. 2) (repealed)

1990 No. 2

*Miscellaneous and general*

## **11 Further powers of the Cathedrals Fabric Commission.**

- (1) The Commission may, on receiving a request from the Council for the Care of Churches, give advice to the Council with respect to works which are proposed to be carried out in relation to a church of the Church of England which is not a cathedral church.
- (2) The Commission—
  - (a) may, on receiving a request made with the approval of the Representative Body of the Church in Wales, give advice with respect to works which are proposed to be carried out in relation to a cathedral church in Wales; and
  - (b) may in exceptional circumstances, with the agreement of the governing body of the Church concerned and of [<sup>F1</sup>the Archbishops' Council], give advice in relation to works which are proposed to be carried out in relation to a cathedral church other than a cathedral church of the Church of England or the Church in Wales;but it shall be a condition of giving any advice by virtue of this subsection that any expenses incurred by the Commission in giving that advice are reimbursed.
- (3) The Commission shall have power to exercise any functions in relation to moneys held by any other body or person for the benefit of cathedral churches generally, being functions delegated to it by that body or person.
- (4) For the purpose of exercising its functions under this Measure the Commission—
  - (a) may acquire books, plans, drawings, photographs and other material relating to cathedral churches; and
  - (b) may from time to time hold conferences for cathedral clergy and staff, cathedral architects [<sup>F2</sup>or surveyors of the fabric], [<sup>F3</sup>cathedral archaeologists]

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and others concerned with the care, conservation and maintenance of cathedral churches.

#### Textual Amendments

- F1** Words in s. 11(2) substituted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 2](#); [2007 No. 2](#), Instrument made by Archbishops
- F2** Words in s. 11(4) inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 3](#); [2007 No. 2](#), Instrument made by Archbishops
- F3** Words in s. 11(4) substituted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 3](#); [2007 No. 2](#), Instrument made by Archbishops

### [<sup>F4</sup>11A General duties of approval bodies

The Commission, any fabric advisory committee and any Commission of Review shall, without prejudice to the duty conferred upon them by section 1 above, in exercising any function conferred upon them by the preceding sections of this Measure, have due regard to the desirability of preserving—

- (a) the fabric of the cathedral church and any features of architectural, archaeological, artistic or historic interest which it possesses;
- (b) the immediate setting of the cathedral church;
- (c) any building within the precinct of the cathedral church of architectural, archaeological, artistic or historic interest;
- (d) any archaeological [<sup>F5</sup>or human] remains within the precinct of the cathedral church; and
- (e) any objects referred to in section 2(1)(b) above.]

#### Textual Amendments

- F4** S. 11A inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), [ss. 11](#), 20(3); [2007 No. 2](#), Instrument made by Archbishops
- F5** Words in s. 11A(d) inserted (1.7.2010) by [Church of England \(Miscellaneous Provisions\) Measure 2010 \(No. 1\)](#), [ss. 10\(3\)\(d\)](#), 13(2); [2010 No. 2](#), art. 2, Sch. 1

### 12 [<sup>F6</sup>Provisions as to cathedral architects or surveyors of the fabric and cathedral archaeologists.]

- (1) It shall be the duty of the [<sup>F7</sup>Chapter of a cathedral ] to consult the Commission before appointing a cathedral architect [<sup>F8</sup>or surveyor of the fabric].
- (2) It shall be the duty of the [<sup>F7</sup>Chapter of a cathedral][<sup>F9</sup>after consulting the Commission to appoint a cathedral archaeologist], except in any case in which the Commission notifies the [<sup>F7</sup>Chapter] that in the view of the Commission the archaeological significance of that cathedral church does not justify such an appointment.

#### Textual Amendments

- F6** S. 12 headnote substituted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), [ss. 12\(3\)](#), 20(3); [2007 No. 2](#), Instrument made by Archbishops

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- F7** Words in Measure substituted by 1999 No. 1, s. 36(1A) (as inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), **Sch. 3 para. 10**); 2007 No. 2, Instrument made by Archbishops
- F8** Words in s. 12(1) substituted (7.2.2006) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), **ss. 12(1), 20(3)**; 2006 No. 1, Instrument made by Archbishops
- F9** Words in s. 12(2) substituted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), **ss. 12(2), 20(3)**; 2007 No. 2, Instrument made by Archbishops

### 13 Inventories, etc.

- <sup>F10</sup>(1) It shall be the duty of the Chapter of a cathedral to compile and maintain an inventory of all objects the property in which is vested in the corporate body or which are in the possession or custody of the corporate body or to whose possession or custody the corporate body is entitled which the fabric advisory committee considers to be of architectural, archaeological, artistic or historic interest in accordance with rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 1).
- (1A) The compilation of the inventory under subsection (1) above shall be completed within such period as the Commission, after consultation with the Chapter and the fabric advisory committee, determines, being such period as it considers reasonable, having regard to the particular circumstances of each case, and different periods may be specified by the Commission for different parts of the inventory.
- (1B) The Chapter shall make an annual report to the fabric advisory committee on the contents of the inventory or on progress made in compiling the inventory, which shall, in particular, certify the accuracy of the inventory or any part of it which has been compiled and describe any alterations which have been made to the inventory during the twelve months preceding the report.
- (1C) The first annual report required by subsection (1B) above shall be made within the period of twelve months beginning with the date of the coming into force of section 13 of the Care of Cathedrals (Amendment) Measure 2005.]
- (2) It shall be the duty of the fabric advisory committee of a cathedral church to designate those objects included in the inventory compiled and maintained for the cathedral church under subsection (1) above which the committee considers, after consultation with the Commission, to be of outstanding architectural, archaeological, artistic or historic interest.
- (3) It shall be the duty of the [<sup>F7</sup>Chapter of a cathedral] to prepare a plan indicating the extent of the land surrounding the cathedral church of which the fee simple is vested in the [<sup>F11</sup>corporate body] and to complete the preparation of that plan before the expiration of the period of two years beginning with the date on which this section comes into force, and the [<sup>F12</sup>administrator] shall send the plan to the Commission.
- (4) On receiving a plan prepared by the [<sup>F7</sup>Chapter] under subsection (3) above, the Commission shall, after consultation with the [<sup>F7</sup>Chapter], indicate thereon the precinct of the cathedral church for the purposes of this Measure [<sup>F13</sup>In section 13(4) of the 1990 Measure, there shall be added at the end the words “ which shall consist of so much of the land referred to in subsection (3) above as, in the opinion of the Commission, is necessary to preserve or protect the architectural, archaeological, artistic or historic character of the cathedral church and of any buildings of architectural, archaeological, artistic or historic interest associated with it and of any [<sup>F14</sup>archaeological or human

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remains] associated with or situated in, under or near to the cathedral church or any such buildings and the setting of the cathedral church and any such buildings and remains; and in implementing the requirements of this subsection the Commission shall have regard to the context in which the cathedral church and any such buildings have developed over time ”].

- [<sup>F15</sup>(5) The Chapter shall keep the plan prepared under subsection (3) above up to date and shall notify the Commission of any changes made to it, whereupon the Commission shall, after consultation with the Chapter, make any alterations to the precinct indicated on the plan which it considers appropriate, having regard to subsection (4) above.
- (6) The Commission may, after consultation with the Chapter, make such alterations to the precinct indicated on the plan prepared under subsection (3) above as it considers appropriate, having regard to subsection (4) above.]

#### Textual Amendments

- F7** Words in Measure substituted by 1999 No. 1, s. 36(1A) (as inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), **Sch. 3 para. 10**); 2007 No. 2, Instrument made by Archbishops
- F10** S. 13(1)-(1C) substituted (1.1.2008) for s. 13(1) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), **ss. 13(1), 20(3)**; 2007 No. 2, Instrument made by Archbishops
- F11** Words in s. 13(3) substituted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), **ss. 13(2), 20(3)**; 2007 No. 2, Instrument made by Archbishops
- F12** Words in Measure substituted by 1999 No. 1, s. 36(1A) (as inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), **Sch. 3 para. 10**); 2007 No. 2, Instrument made by Archbishops
- F13** Words in s. 13(4) added (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), **ss. 13(3), 20(3)**; 2007 No. 2, Instrument made by Archbishops
- F14** Words in s. 13(4) substituted (1.7.2010) by [Church of England \(Miscellaneous Provisions\) Measure 2010 \(No. 1\)](#), **ss. 10(3)(e), 13(2)**; 2010 No. 2, art. 2, **Sch. 1**
- F15** S. 13(5)(6) added (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), **ss. 13(4), 20(3)**; 2007 No. 2, Instrument made by Archbishops

#### [<sup>F16</sup>14 Reports and inspections by cathedral architects or surveyors of the fabric

- (1) Subject to subsection (3) below, it shall be the duty of the Chapter of a cathedral to arrange during the period of five years beginning with the date on which this section comes into force and during every subsequent period of five years, for the cathedral architect or surveyor of the fabric, in consultation with the cathedral archaeologist (if any), to make a report in writing to the Chapter on any works which the architect or surveyor of the fabric considers will need to be carried out in relation to the cathedral church and any ancillary building and on the urgency with which the architect or surveyor of the fabric considers that they should be carried out; and a copy of that report shall be sent to the Commission.
- (2) Subject to subsection (3) below, the reports referred to in subsection (1) above shall be based upon such inspection or inspections of the fabric of the cathedral church and any ancillary building as the cathedral architect or surveyor of the fabric considers necessary to enable the architect or surveyor of the fabric to fulfil the requirements of subsection (1) above.

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- (3) The first report referred to in subsection (1) above made by a cathedral architect or surveyor of the fabric appointed after the date of the coming into force of section 14 of the Care of Cathedrals (Amendment) Measure 2005 shall be based on a full and detailed inspection of the cathedral church and any ancillary building and shall be made within the period of two years beginning with the date of the appointment.
- (4) In its application to a cathedral architect or surveyor of the fabric appointed after the first date referred to in subsection (3) above, subsection (1) above shall have effect so that the second and subsequent reports of the architect or surveyor of the fabric shall be made during the period of five years beginning with the date of the first report and every subsequent period of five years.
- (5) The cathedral architect or surveyor of the fabric shall, within the period of twelve months beginning with the date of the coming into force of section 14 of the Care of Cathedrals (Amendment) Measure 2005 and annually thereafter make, in consultation with the architect or surveyor appointed under section 20 of the Cathedrals Measure 1999 (if a different person) and the cathedral archaeologist (if any), a report in writing to the Chapter containing a summary of any works to the cathedral church and any ancillary building carried out during the preceding year, an account of progress made in giving effect to the recommendations made in the reports referred to in subsection (1) above and any other matters which the cathedral architect or surveyor of the fabric considers to be relevant to the care and conservation of the cathedral church.
- (6) In this section “ ancillary building ” means any building which the Chapter may from time to time specify, being a building attached to or adjacent to the cathedral church and used for purposes ancillary to the use of the cathedral church, but excluding any building used wholly or mainly for residential purposes. ]

#### **Textual Amendments**

**F16** S. 14 substituted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), ss. 14, 20(3); [2007 No. 2](#), Instrument made by Archbishops

#### **[<sup>F17</sup>14A Reports by cathedral archaeologists**

- (1) It shall be the duty of the Chapter of a cathedral which has appointed a cathedral archaeologist to arrange, within the period of two years beginning with the date of the coming into force of section 15 of the Care of Cathedrals (Amendment) Measure 2005 for the cathedral archaeologist to assess those matters of archaeological interest which relate to the cathedral church and its precinct, including buildings and remains within the precinct and, in consultation with the cathedral architect or surveyor of the fabric and the architect or surveyor appointed under section 20 of the Cathedrals Measure 1999 (if a different person), to make a report in writing to the Chapter containing recommendations on how those matters should be managed, and on the compilation and maintenance of archaeological records relating thereto; and a copy of the report shall be sent to the Commission.
- (2) The cathedral archaeologist shall, within the period of twelve months beginning with the date of the coming into force of section 15 of the Care of Cathedrals (Amendment) Measure 2005 and annually thereafter, make in consultation with the persons referred to in subsection (1) above a report to the Chapter containing an account of progress made in fulfilling the recommendations of the report (if made)

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referred to in subsection (1) above and any other matters which the archaeologist considers to be relevant to the archaeological interest of the cathedral church and its precinct.

#### Textual Amendments

**F17** Ss. 14A, 14B inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), **ss. 15, 20(3)**; [2007 No. 2](#), Instrument made by Archbishops

### 14B Maintenance of records

The cathedral architect or surveyor of the fabric and the cathedral archaeologist (if any) shall each, in consultation with the architect or surveyor appointed under section 20 of the Cathedrals Measure 1999 (if a person other than the cathedral architect or surveyor of the fabric) include in the annual report required to be made to the Chapter under section 14(5) or 14A(2) above advice as to those works carried out in the previous year of which a permanent record should in the opinion of the cathedral architect or surveyor of the fabric or cathedral archaeologist be maintained and it shall be the duty of the Chapter—

- (a) to have regard to that advice and, pursuant thereto, to make and maintain appropriate permanent records of any such works; and
- (b) during the period of five years beginning with the date of the coming into force of section 15 of the Care of Cathedrals (Amendment) Measure 2005 and during every subsequent period of five years, to make a report in writing to the fabric advisory committee of the records made under paragraph (a) above and on the arrangements for maintaining those records and to send a copy of the report to the Commission.]

#### Textual Amendments

**F17** Ss. 14A, 14B inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), **ss. 15, 20(3)**; [2007 No. 2](#), Instrument made by Archbishops

### 15 Applications for listed building or scheduled monument consent.

Where the [<sup>F7</sup>Chapter] of a cathedral church proposes to make any application for—

- (a) listed building consent under section 55 of the Town and Country Planning Act 1971, or
- (b) scheduled monument consent under section 2 of the Ancient Monuments and Archaeological Areas Act 1979,

in respect of any building or monument within the precinct of the cathedral church, the [<sup>F7</sup>administrator] shall send to the Commission a notice stating that representations in writing with respect to the proposed application may be sent to him before the end of the prescribed period.

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**Textual Amendments**

**F7** Words in Measure substituted by 1999 No. 1, s. 36(1A) (as inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), **Sch. 3 para. 10**); 2007 No. 2, Instrument made by Archbishops

**F18** **16** .....

.....

**Textual Amendments**

**F18** S. 16 repealed (Provinces of Canterbury and York except C.I. and I. of M.) (1.3.1993) by Measure 1991 No. 1, s. 32(2), **Sch.8**; Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.

**17 Saving.**

Nothing in this Measure shall dispense with any consent or approval which is required by or under the constitution and statutes of a cathedral church for anything done by the [<sup>F7</sup>Chapter] of that cathedral church.

**Textual Amendments**

**F7** Words in Measure substituted by 1999 No. 1, s. 36(1A) (as inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), **Sch. 3 para. 10**); 2007 No. 2, Instrument made by Archbishops

**F19** **18 Power to exclude parish church cathedrals.**

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**Textual Amendments**

**F19** S. 18 repealed (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), **ss. 16, 20(3)**; 2007 No. 2, Instrument made by Archbishops

**19 Notices.**

All notices required to be given under this Measure shall be in writing and shall be in the prescribed form.

**20 Interpretation.**

(1) In this Measure, unless the context otherwise requires—

[<sup>F20</sup> “administrator of the cathedral” means the person, by whatever name called, appointed under section 9(1)(e) of the Cathedrals Measure 1999; ]

<sup>F21</sup>  
...

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F21 ...

“archaeological remains” means the remains of any building, work or artefact, including any trace or sign of the previous existence of the building, work or artefact in question;

“architect” means a person registered under the [F22 Architects Act 1997];

[F23 “building” includes any monument or other structure or erection and any part of a building as so defined and “fabric” shall be construed accordingly; ]

[F24 “cathedral archaeologist” means the person appointed under section 12(2) above, by whatever name called, being a person who possesses such qualifications and expertise in archaeological matters as the Commission may recognise as appropriate; ]

[F25 “cathedral architect or surveyor of the fabric” means any architect or surveyor appointed by virtue of section 9(1)(f) of the Cathedrals Measure 1999 by whatever name called; ]

“cathedral church” means any cathedral church in the provinces of Canterbury and York, except—

- (a) the Cathedral Church of Christ in Oxford,
- (b) any cathedral church in the diocese of Sodor and Man or in the diocese in Europe<sup>F26</sup> ...
- (c) <sup>F26</sup> ...

[F27 “Chapter” means the body of that name established by section 2 of the Cathedrals Measure 1999; ]

F21 ...

F21 ...

“chartered building surveyor” means a member of the Royal Institution of Chartered Surveyors qualified as a chartered building surveyor;

[F28 “corporate body” means the body established under section 9(1)(a) of the Cathedrals Measure 1999; ]

F29 ...

[F30 “English Heritage” means the Historic Buildings and Monuments Commission for England, known as English Heritage; ]

“Liturgical Commission” means the body so named at the passing of this Measure or any body subsequently exercising the functions of that body under a different name or with a different constitution;

“local planning authority” in relation to any area means the body exercising the functions of a local planning authority under section 55 of the<sup>M1</sup>Town and Country Planning Act 1971 in that area;

“national amenity societies” means the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings and the Victorian Society and such other body as may from time to time be designated by the Dean of the Arches and Auditor as a national amenity society for the purpose of this Measure;

F21 ...

“precinct” in relation to a cathedral church means the precinct for the time being indicated on the plan required for that cathedral church by section 13<sup>F31</sup> ... of this Measure;



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“prescribed” means prescribed by rules made under [F32]section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991];

F33  
...

- (2) For the purposes of this Measure any object or structure permanently situated in [F34 or affixed to] a cathedral church or any building within the precinct of a cathedral church shall be treated as part of that cathedral church or building [F34 or of its fabric], as the case may be.
- (3) For the purposes of this Measure a building shall be treated as being used for ecclesiastical purposes if it would be so used but for any works proposed to be carried out in relation to it.

#### Textual Amendments

- F20** Words in s. 20(1) inserted (7.2.2006) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(b\)](#); 2006 No. 1, Instrument made by Archbishops
- F21** Words in s. 20(1) omitted (1.1.2008) by virtue of [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(a\)](#); 2007 No. 2, Instrument made by Archbishops
- F22** S. 20(1): Words in definition of “architect” substituted (21.7.1997) by virtue of 1997 c. 22, [s. 26\(2\)](#) (with [Sch. 2](#)); [S.I. 1997/1672](#), [art. 2](#)
- F23** Words in s. 20(1) substituted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(c\)](#); 2007 No. 2, Instrument made by Archbishops
- F24** Words in s. 20(1) inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(d\)](#); 2007 No. 2, Instrument made by Archbishops
- F25** Words in s. 20(1) substituted (7.2.2006) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(e\)](#); 2006 No. 1, Instrument made by Archbishops
- F26** Words in s. 20(1) omitted (1.1.2008) by virtue of [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(f\)](#); 2007 No. 2, Instrument made by Archbishops
- F27** Words in s. 20(1) inserted (7.2.2006) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(g\)](#); 2006 No. 1, Instrument made by Archbishops
- F28** Words in s. 20(1) inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(h\)](#); 2007 No. 2, Instrument made by Archbishops
- F29** Words in s. 20(1) repealed (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 7](#); 2007 No. 3, Instrument made by Archbishops
- F30** Words in s. 20(1) substituted (7.2.2006) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(i\)](#); 2006 No. 1, Instrument made by Archbishops
- F31** Words in s. 20(1) omitted (1.1.2008) by virtue of [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(j\)](#); 2007 No. 2, Instrument made by Archbishops
- F32** Words in s. 20(1) substituted (Provinces of Canterbury and York except C.I. and I. of M.) (1.3.1993) by [Measure 1991 No. 1](#), s. 32(1), [Sch. 7](#), para. 6; Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York.
- F33** Words in s. 20(1) omitted (1.1.2008) by virtue of [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 4\(k\)](#); 2007 No. 2, Instrument made by Archbishops
- F34** Words in s. 20(2) inserted (1.1.2008) by [Care of Cathedrals \(Amendment\) Measure 2005 \(No. 2\)](#), s. 20(3), [Sch. 3 para. 5](#); 2007 No. 2, Instrument made by Archbishops

#### Marginal Citations

- M1** 1971 c. 78.

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## **21 Short title and commencement.**

- (1) This Measure may be cited as the Care of Cathedrals Measure 1990.
- (2) This Measure shall come into force on such date as the Archbishops of Canterbury and York may jointly appoint, and different dates may be appointed for different provisions.

**Status:**

Point in time view as at 01/07/2010.

**Changes to legislation:**

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