

National Institutions Measure 1998

1998 No. 1

Archbishops' Council

1 Establishment of the Archbishops' Council

- (1) There shall be a body to be known as “the Archbishops' Council” whose objects shall be to co-ordinate, promote, aid and further the work and mission of the Church of England.
- (2) It is hereby declared that the Council is established for charitable purposes.
- (3) The provisions of Schedule 1 to this Measure shall have effect with respect to the Council and its members, to the appointment of its staff and to its proceedings and incidental powers.
- (4) Part I of Schedule 1 to this Measure may at any time be amended by resolution of the General Synod.
- (5) The Statutory Instruments Act 1946 shall apply to any resolution of the General Synod under subsection (4) above as if it were a statutory instrument and as if this Measure were an Act providing that any such resolution shall be subject to annulment in pursuance of a resolution of either House of Parliament.

2 Application of funds

- (1) It shall be the duty of the Church Commissioners—
 - (a) from time to time in general meeting to determine the amount of income from their assets which is to be made available to the Council for application or distribution under subsection (3) below in the course of such period as may be specified in the determination, and
 - (b) to the extent that the Church Commissioners are satisfied that it is available for application or distribution, to pay that amount to the Council in equal monthly instalments or as otherwise agreed by them and the Council.

- (2) Before determining the amount mentioned in subsection (1)(a) above the Church Commissioners shall consult the Council and in making the determination they shall have regard to any proposals made by the Council.
- (3) The Council shall consider and determine how to apply or distribute such sums as have been made available by the Church Commissioners under subsection (1) above, but those sums shall not be applied or distributed by the Council for any purpose other than one for which the balance in the Church Commissioners' general fund was available immediately before the coming into force of this section and in applying or distributing those sums the Council shall have particular regard to the requirements of section 67 of the Ecclesiastical Commissioners Act 1840 relating to the making of additional provision for the cure of souls in parishes where such assistance is most required.
- (4) Where a decision is taken by the Council or the Church Commissioners to the effect that a plan should be produced under this subsection, those bodies acting jointly shall after consultation with any body appearing to them to be significantly affected, produce a plan which—
 - (a) contains an estimate by the Church Commissioners, having regard to any recommendation made by the Assets Committee under section 6(3)(b) of the Church Commissioners Measure 1947, of the amount of income from their assets available for application or distribution under subsection (3) above during a period not exceeding three years, and
 - (b) identifies the purposes for which the sums mentioned in subsection (3) above are to be applied or distributed in the course of that period or part thereof and the proportion of those sums appropriate for each purpose.Any such plan may be amended or replaced in the same manner.
- (5) Where a plan is produced under subsection (4) above—
 - (a) the Church Commissioners, in complying with the requirements of subsection (2) above, shall have regard to the plan, and
 - (b) the Council, in complying with the requirements of subsection (3) above, shall act in accordance with the plan,in so far as the plan relates to the period in question.
- (6) As soon as practicable after the end of each year the Council shall cause a certificate to be issued to the Church Commissioners to the effect that the application and distribution of the sums made available by them as aforesaid has been in accordance with subsection (3) above.

3 Accounts and audit

- (1) The following provisions of this section shall have effect without prejudice to the provisions of Part VI of the Charities Act 1993.
- (2) The accounts of the Council for each year shall be audited by a person appointed by the Council with the approval of the General Synod, being a person eligible under subsection (2) of section 43 of that Act to carry out an audit under that subsection.
- (3) The person so appointed shall be deemed, for the purposes of the said Part VI, to have been appointed in pursuance of the said section 43.
- (4) The auditor's report for any year, together with the accounts for that year, shall be laid before the General Synod before the end of June in the following year.

4 Reports and budgets

- (1) The Council shall cause a report of its work and proceedings during the year in question, including any decisions taken as to its future work, to be laid before the General Synod before the end of June in the following year.
- (2) The Council shall also, at each group of sessions of the General Synod, cause an account of the matters discussed and the decisions taken by it at its meetings held since the previous group of sessions to be laid before the General Synod.
- (3) In each year the Council shall prepare a budget indicating its expected income and expenditure for the following year and, before the end of June, cause it to be laid before the General Synod for its approval.
- (4) In considering the annual budget it shall not be open to the General Synod to alter the amount of the sums to be made available to the Council by the Church Commissioners under section 2 above or the proposed application or distribution of those sums.
- (5) The General Synod may request reports from the Council on any matter relating to the functions of the Council.

Transfer of functions and officers

5 Transfer of functions

- (1) Subject to the following provisions of this section the Archbishops of Canterbury and York acting jointly may, after consultation with any body appearing to them to be significantly affected, by order transfer to the Council or such other body as may be specified in the order any function previously exercisable by—
 - (a) the Church Commissioners other than—
 - (i) a function relating to the management or ownership of the Commissioners' assets,
 - (ii) a function relating to bishops under any enactment specified in Part I of Schedule 2 to this Measure,
 - (iii) a function relating to cathedrals under any enactment specified in Part II of that Schedule, and
 - (iv) a function under the Church of England (Pensions) Measures 1961 to 1997, or
 - (b) the Central Board of Finance, or
 - (c) the Standing Committee of the General Synod or any of its sub-committees.
- (2) Any such order may contain such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the order, including provisions—
 - (a) amending paragraph 1 of Schedule 1 to the Church Commissioners Measure 1947 (as substituted by section 7 below) so as to reduce the number of Commissioners;
 - (b) for the carrying on and completion by or under the authority of the Council or other body so specified of anything commenced by or under the authority of the Commissioners, the Central Board of Finance or the Standing Committee before the date on which the order takes effect;

Status: This is the original version (as it was originally enacted).

- (c) for such adaptation of the statutory provisions relating to any such function transferred as may be necessary to enable it to be exercised by or on behalf of the Council or other body so specified;
 - (d) for the substitution of the Council or other body so specified for the Commissioners, the Central Board of Finance or the Standing Committee in any instrument, contract or legal proceedings made or commenced before the date on which the order takes effect.
- (3) Before making any such order which relates to the functions of the Church Commissioners under the Dioceses Measure 1978 or the Pastoral Measure 1983 the Archbishops shall consult with the Prime Minister and the Church Commissioners.
- (4) An order under subsection (1) above may be varied by a subsequent order made thereunder.
- (5) A draft of any order proposed to be made under subsection (1) above shall be laid before the General Synod and if it is approved by the General Synod, whether with or without amendment, the draft order as so approved shall be referred to the Archbishops.
- (6) Where a draft order is referred to the Archbishops under subsection (5) above then—
- (a) if it has been approved by the General Synod without any amendment, the Archbishops shall make the order;
 - (b) if it has been approved by the General Synod with amendment, the Archbishops may make the order but, in the case of any order which relates to the functions of the Church Commissioners under the Dioceses Measure 1978 or the Pastoral Measure 1983, shall not do so without further consultation as required by subsection (3) above.
- (7) An order under subsection (1) above which relates to the functions of the Church Commissioners under the Dioceses Measure 1978 or the Pastoral Measure 1983 shall not come into operation unless and until it has been approved by resolution of each House of Parliament.
- (8) The Statutory Instruments Act 1946 shall apply to any order under subsection (1) above as if it were a statutory instrument and, in the case of an order which does not relate to a function to which subsection (7) above applies, as if this Measure were an Act providing that any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

6 Transfer of officers

- (1) Where a person or body to whom this section applies determines that all or any of the officers of that person or body should be transferred to any body or partnership of the kind mentioned in subsection (4) below as a common employer and the last mentioned body or partnership agrees to the transfer, the provisions of Schedule 3 to this Measure shall have effect in relation to each officer transferred.
- (2) This section applies to the following bodies—
- the Archbishops' Council
 - the Church Commissioners
 - the Central Board of Finance
 - the Pensions Board.

- (3) This section also applies to such other bodies or persons as the Archbishops of Canterbury and York acting jointly may by order determine after consultation with the bodies specified in subsection (2) above.
- (4) Where two or more of the bodies or persons to whom this section applies enter into an agreement—
 - (a) which would be a partnership within the meaning of the Partnership Act 1890 if they were carrying on a business with a view to profit, and
 - (b) which provides for the employment of officers,that agreement shall be deemed to be a partnership for the purposes of that Act, notwithstanding that they are not carrying on such a business.
- (5) Any partnership agreement of the kind mentioned in subsection (4) above may provide for the admission to the partnership of one or more of the bodies mentioned in subsection (2) above as general partners and of one or more of the bodies or persons to whom this section applies as limited partners.

In this subsection “limited partner” and “general partner” have the same meanings as in the Limited Partnerships Act 1907.

Church Commissioners

7 Amendment of Church Commissioners Measure 1947

- (1) The Church Commissioners Measure 1947 shall have effect subject to the amendments specified in Schedule 4 to this Measure.
- (2) The Church Commissioners in office immediately before the date of the coming into force of paragraph 8 of the said Schedule 4, other than those who are to be Church Commissioners ex officio by virtue of that paragraph, shall cease to be such on that date.
- (3) Any rules made by the General Purposes Committee under section 17 of the Church Commissioners Measure 1947 and in force immediately before the coming into force of paragraph 7 of the said Schedule 4 shall continue to have effect as if made by the Board of Governors of the Church Commissioners.

8 Management of assets

The Church Commissioners shall continue to manage their assets for the advancement of any purpose for which they held those assets immediately before the coming into force of this section, and in so doing they shall have particular regard to the requirements of section 67 of the Ecclesiastical Commissioners Act 1840 relating to the making of additional provision for the cure of souls in parishes where such assistance is most required.

General provisions

9 Standing Orders of the General Synod

The Standing Orders regulating the procedure of the General Synod shall include provision—

- (a) permitting the Archbishops' Council or the Business Committee of the General Synod to introduce to the General Synod draft legislation proposed to be passed by the General Synod;
- (b) affording the General Synod an opportunity at each group of sessions—
 - (i) to consider any report or budget laid before it in pursuance of section 3 or 4 above,
 - (ii) to consider such other matters as may be referred to it by the Council, and
 - (iii) to question representatives of the Council in connection with any such report, budget or other matter.

10 Committees

The General Synod shall, without prejudice to paragraph 10 of Schedule 2 to the Synodical Government Measure 1969, appoint or provide by its Standing Orders for the appointment of—

- (a) a committee to be known as “the Appointments Committee of the Church of England”, the membership of which shall consist of persons who are members of the General Synod, at least one third being members of the Council;
- (b) a committee to be known as “the Business Committee of the General Synod”, the membership of which shall consist of persons who are members of the General Synod.

11 Restriction on elected membership of certain bodies

- (1) Where a person is elected by the General Synod or one of its Houses as a member of any body to whom this section applies when he is a member of any other such body, he shall cease to be a member of that other body.
- (2) It shall not be open to any person to stand for election as a member of more than one such body at the same time.
- (3) This section applies to—
 - the Archbishops' Council,
 - the Church Commissioners,
 - the Church of England Pensions Board,
 - the Appointments Committee of the Church of England, and
 - the Business Committee of the General Synod.

12 Interpretation

- (1) In this Measure, unless the context otherwise requires—
 - “the Council” means the Archbishops' Council established by section 1 above;
 - “functions” includes powers and duties;
 - “officer” includes servant;
 - “statutory provision” means any provision contained in an Act or Measure or in an instrument made under an Act or Measure;
 - “year” means the financial year of the Church Commissioners.

- (2) References in this Measure to the House of Bishops, the House of Clergy or the House of Laity shall be construed as references to the relevant House of the General Synod.

13 Amendments and repeals

- (1) The enactments mentioned in Schedule 5 to this Measure shall have effect subject to the amendments specified in that Schedule.
- (2) In the Church Commissioners Measure 1947 the following provisions are hereby repealed—
- in section 10, subsections (2) and (3);
 - in section 13, subsection (1);
 - section 14;
 - Schedule II.
- (3) In the Church of England (Miscellaneous Provisions) Measure 1995 section 6 is hereby repealed.

14 Extent

This Measure shall extend to the whole of the Provinces of Canterbury and York.

15 Short title and commencement

This Measure may be cited as the National Institutions Measure 1998 and shall come into force on such day as may be appointed by the Archbishops of Canterbury and York acting jointly, and different days may be appointed for different provisions.