



Care of Cathedrals (Amendment) Measure 2005

2005 No. 2

1 Approval for cathedral works

Section 2(1) of the [Care of Cathedrals Measure 1990 \(1990 No.2\)](#) (“the 1990 Measure”) shall be amended as follows—

- (a) for the words “section 5” there shall be substituted the words “sections 5 and 6”;
- (b) after the word “implement” there shall be inserted the words “or consent to the implementation of”;
- (c) in paragraph (a), for the words “chapter of the cathedral church” there shall be substituted the words “corporate body” and after the word “works”, in the first place where it occurs, there shall be inserted the words “, including works of repair or maintenance,”;
- (d) in paragraph (b), for the words after “vested in” to the end there shall be substituted the words “the corporate body or which is in the possession or custody of the corporate body or to whose possession or custody the corporate body is entitled, being an object of architectural, archaeological, artistic or historic interest, including any object to which section 6A below applies”; and
- (e) after paragraph (b) there shall be inserted the following paragraph—
 - “(bb) for the carrying out of any work to any such object as is referred to in paragraph (b) above which would materially affect the architectural, archaeological, artistic or historic character of the object, or”.

2 Functions of the Cathedrals Fabric Commission for England

- (1) In section 3(2)(a) of the 1990 Measure, after the words “cathedral church”, in the second place where those words occur, there shall be added at the end the words “, any buildings or archaeological remains within its precinct, the landscape and environment in which the cathedral church is situated and any objects referred to in section 2(1) (b) above”.

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(2) After section 3(2) of the 1990 Measure, there shall be inserted the following subsection—

“(2A) It shall also be the duty of the Commission to promote, in consultation with Chapters, fabric advisory committees and such other persons or organisations as it thinks fit, by means of guidance or otherwise, standards of good practice to be observed in relation to—

- (a) the matters referred to in subsection (2)(a) above;
- (b) the role and duties of cathedral architects or surveyors of the fabric and cathedral archaeologists;
- (c) the compilation, maintenance and dissemination of information of architectural, archaeological, artistic and historic interest concerning cathedral churches, buildings and archaeological remains within their precincts and any objects referred to in section 2(1)(b) above; and
- (d) the form and content of the records required to be kept by the Chapter under section 14B(a) below.”.

3 Functions of fabric advisory committees

In section 4(2)(a) of the 1990 Measure, after the words “cathedral church”, in the second place where those words occur, there shall be added at the end the words “, any buildings or archaeological remains within its precinct, the landscape and environment in which the cathedral church is situated and any objects referred to in section 2(1)(b) above”.

4 Powers of fabric advisory committee in relation to application of section 2

For section 5 of the 1990 Measure there shall be substituted the following section—

“5 Powers of fabric advisory committee in relation to application of section 2

- (1) The fabric advisory committee shall have power—
 - (a) if requested to do so by the Chapter, to determine whether, under section 2(1) above, an application for approval of a proposal by the Chapter is required to be made; and
 - (b) after consultation with the Chapter and subject to the agreement of the Commission, to determine that section 2 above is not to apply to proposals of any class or description specified by the committee, and to vary or revoke any determination made under this paragraph.
- (2) If the Chapter wishes to have it determined whether a proposal is one to which section 2 above does not apply by virtue of subsection (1)(b) above the fabric advisory committee shall have power to determine that question.
- (3) Where the Commission has made a determination under section 6(2) below in relation to any matter, the fabric advisory committee shall not make a determination under subsection (1)(a) above in relation to the same matter.”.

5 Body to which application for approval to be made

- (1) Section 6(1)(a) of the 1990 Measure shall be amended as follows—
 - (a) in sub-paragraph (i), after “works” there shall be inserted the words “, including works of repair or maintenance,”; and
 - (b) in sub-paragraph (iv), after the words “disposal of” there shall be inserted the words “or the carrying out of any work to”.
- (2) In section 6(1) of the 1990 Measure, after the words “any other proposal” there shall be inserted the words “other than an application under section 6A(4)(a) below”.
- (3) After section 6(2) of the 1990 Measure, there shall be inserted the following subsections—
 - “(2A) If the Commission considers that a proposal falls within subsection (1)(a) above, but that the proposal does not give rise to considerations of sufficient importance to require an application to be considered by it, it may make a declaration in writing to that effect and any application for approval of the proposal shall be made instead to the fabric advisory committee.
 - (2B) The Commission shall also have power, after consultation with any relevant Chapter and any relevant fabric advisory committee, English Heritage, the national amenity societies (or such person as the societies shall jointly appoint for the purposes of this section) and, in the case of a proposal of a kind described in section 2(1)(a) above, any relevant local planning authority, to determine that subsection (1)(a) above shall not apply to proposals of any class or description specified by the Commission in relation either to cathedrals generally or to such cathedrals as may be specified and to vary or revoke any determination made under this subsection and any application for approval of any such proposal shall be made instead to the fabric advisory committee.
 - (2C) If, following a request in writing from the Chapter of a cathedral, the Commission is satisfied—
 - (a) that a proposal or intended proposal falls within section 2(1)(a)(ii) or (iii) above;
 - (b) that the proposal does not relate to the cathedral church or a building within the precinct of the cathedral church for the time being used for ecclesiastical purposes;
 - (c) that planning permission, listed building consent or scheduled monument consent is required for the carrying out of all the works to which the proposal relates; and
 - (d) that any considerations relevant to preserving the immediate setting of the cathedral church or any archaeological remains within the precinct of the cathedral church will be or have been adequately taken into account by the person or body responsible for granting the permission or consent;the Commission may, after consulting the local planning authority, the fabric advisory committee and English Heritage, make a declaration in writing that no approval is required under this Measure for the proposal.
 - (2D) In subsection (2C) above “planning permission”, “listed building consent” and “scheduled monument consent” have the meanings respectively assigned to them by section 336(1) of the Town and Country Planning Act 1990 (c. 8), section 8(7) of the Planning (Listed Buildings and Conservation Areas) Act

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1990 (c. 9) and section 2(3)(a) of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46).”.

- (4) In section 6(4) of the 1990 Measure for the words “this Measure” there shall be substituted the words “section 26 of the [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(1991 No. 1\)](#)”.

6 Treasure

After section 6 of the 1990 Measure there shall be inserted the following section—

“6A Treasure

- (1) This section applies to any object which would, but for an order under section 2(2) of the Treasure Act 1996 (c. 24), be treasure within the meaning of that Act and which is found within the precinct of a cathedral.
- (2) Where the administrator of the cathedral becomes aware that an object has been discovered which appears to be an object to which this section applies the administrator—
 - (a) shall within fourteen days notify the Commission in writing of the discovery; and
 - (b) shall arrange for the object to be recorded in the inventory required to be compiled and maintained under section 13 below and designated as treasure in that inventory in accordance with directions issued by the Commission.
- (3) On receipt of a notification under subsection (2) above the secretary of the Commission shall report the discovery, in writing, to the Secretary of State or to such person or body as may be designated by the Secretary of State.
- (4) The Chapter of the cathedral shall—
 - (a) before implementing any proposal for the sale, loan or other disposal of an object to which this section applies, apply to the Commission for approval, unless the Commission’s approval is required under section 6 above; and
 - (b) before implementing any proposal for the sale or other disposal (other than a loan) of such an object, afford the British Museum or another registered museum nominated by the British Museum an opportunity of purchasing the object.
- (5) Rules made under section 26 of the [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(1991 No. 1\)](#) may prescribe the procedure to be followed in connection with any matters arising under this section and in particular shall make provision for determining the purchase price to be paid under subsection (4)(b) above and for the procedure for and the matters to be taken into account in arriving at the purchase price.
- (6) In subsection (4)(b) above “registered museum” has the meaning ascribed to it in the Code of Practice issued under section 11 of the Treasure Act 1996 or such other meaning as may be specified by the Secretary of State.”.

7 Applications for approval of fabric advisory committee

(1) In section 7(1) of the 1990 Measure, for paragraphs (a) and (b) there shall be substituted the following paragraphs—

- “(a) to the Commission, and
- (b) if the application relates to a proposal of a kind described in section 2(1)(a) above—
 - (i) to English Heritage,
 - (ii) to the national amenity societies (or such person as those societies shall jointly appoint for the purposes of this section), and
 - (iii) to the local planning authority.”.

(2) For section 7(3) of the 1990 Measure there shall be substituted the following subsection—

“(3) The secretary of the fabric advisory committee shall send notice of the committee’s decision—

- (a) to the Chapter of the cathedral,
- (b) to the Commission, and
- (c) to any body or person to whom notice of the application is required to be sent by virtue of subsection (1)(b) above,

and the administrator of the cathedral shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection.”.

8 Applications for approval of Cathedrals Fabric Commission

(1) In section 8(1)(b) of the 1990 Measure for the words “the Historic Buildings and Monuments Commission” there shall be substituted the words “English Heritage” and in the penultimate line of that subsection for the word “it” there shall be substituted the words “the administrator”.

(2) After section 8(1) of the 1990 Measure there shall be inserted the following subsection—

“(1A) Following receipt of the notice referred to in subsection (1) above, the secretary of the fabric advisory committee shall inform the Commission in writing whether the committee has considered the proposal and, if so, of its views.”.

(3) After section 8(2) of the 1990 Measure there shall be inserted the following subsections—

“(2A) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv) above the Commission may consult the Church Commissioners on any financial considerations (other than any which relate to the valuation of the object in question) which may be relevant to the proposal and on which the Commission considers it appropriate to receive the advice of the Commissioners and the Commissioners shall give such advice as they consider appropriate.

(2B) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv) above the Commission may request the Chapter of the cathedral to—

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- (a) consult the Council of the cathedral if it has not already done so; and
- (b) inform the Commission of the Council's views on the proposal.

(2C) If a meeting is arranged between the Commission and the Chapter of the cathedral to discuss the proposal the administrator shall notify the secretary of the fabric advisory committee of the meeting and the committee's representatives shall be entitled to be present at the meeting."

- (4) Section 8(3) of the 1990 Measure shall be amended as follows—
- (a) in paragraph (c) for the words "the Historic Buildings and Monuments Commission" there shall be substituted the words "English Heritage";
 - (b) for paragraph (e) there shall be substituted the following paragraph—
 - "(e) if the decision relates to a proposal of a kind described in section 2(1)(a) above, to the local planning authority,";
 - (c) after paragraph (e) there shall be added the following paragraph—
 - "(f) if the Commission has consulted the Church Commissioners on the proposal under subsection (2A) above, to the Church Commissioners,"; and
 - (d) the words after the word "subsection" to the end shall be omitted.

9 Conditions applying to approval and registers of applications

After section 10 of the 1990 Measure there shall be inserted the following sections—

"10A Conditions applying to approval

- (1) Any approval given to an application under this Measure shall lapse at the expiry of the period of ten years from the date on which notice of the decision is given to the Chapter, provided that the body which gave the approval may extend that period by such period as it may specify.
- (2) As soon as possible after the completion of any work for which approval has been given, the administrator of the cathedral shall notify the fabric advisory committee or the Commission, as the case may be, of the date of the completion.
- (3) In subsection (1) above, the reference to the date on which notice of the decision is given shall, in the case of an appeal to the Commission under section 9(1) above or an application for review by a Commission of Review under section 10(1) above, be construed as a reference to the date on which notice of the decision of the Commission or, as the case may be, of the Commission of Review, is given to the Chapter.
- (4) Subsection (1) above shall apply to approvals given before the date of the coming into force of section 9 of the Care of Cathedrals (Amendment) Measure 2005 as if for the reference to ten years from the date referred to therein there were substituted a reference to ten years from the date of the coming into force of the said section 9.

10B Registers of applications

- (1) The Commission and any fabric advisory committee shall each keep a register, in the prescribed form, of applications for approval dealt with by them and shall make such arrangements as are prescribed—

- (a) for inspection of the registers by any person;
 - (b) for the supply, on application by any person, of extracts of that part of the register which relates to an application for approval specified by that person;
 - (c) for enabling the Commission or a fabric advisory committee to supply, if it thinks fit, copies of the whole register or further parts of it, on application by any person.
- (2) The Commission or any fabric advisory committee may impose a fee of a reasonable amount for the supply of copies of or extracts from the register under subsection (1) above and the amount charged may vary according to the circumstances.”.

10 Right of appeal by tenant

After section 10B of the 1990 Measure there shall be inserted the following section—

“10C Right of appeal by tenant

- (1) Where the Commission or a fabric advisory committee has refused approval for a proposal from a Chapter of a cathedral for the carrying out of works by a tenant for which the Chapter’s consent is required or given approval subject to conditions, the tenant may, whether or not the Chapter has appealed against the refusal or the imposition of conditions, or requested that the decision be reviewed by a Commission of Review, as the case may be, within the prescribed period, appeal to the Commission (against a decision of a fabric advisory committee) or request that a decision of the Commission be reviewed by a Commission of Review constituted under section 10 above.
- (2) A tenant who appeals or requests a review under subsection (1) above shall give written notice of the appeal or review to the Chapter.
- (3) The Chapter shall be entitled to appear at the proceedings on any appeal or review under subsection (1) above.
- (4) Sections 9(3) and 10(4) above shall apply to an appeal or review under subsection (1) above as they apply to an appeal or review under those sections.”.

11 General duties of approval bodies

After section 11 of the 1990 Measure there shall be inserted the following section—

“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;

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- (c) any building within the precinct of the cathedral church of architectural, archaeological, artistic or historic interest;
- (d) any archaeological remains within the precinct of the cathedral church; and
- (e) any objects referred to in section 2(1)(b) above.”.

12 Appointment of cathedral architect or surveyor of the fabric and cathedral archaeologist

- (1) In section 12(1) of the 1990 Measure, for the words “under the Cathedrals Measure 1963” there shall be substituted the words “or surveyor of the fabric”.
- (2) In section 12(2) of the 1990 Measure, for the words “to appoint an archaeological consultant to the cathedral church” there shall be substituted the words “after consulting the Commission to appoint a cathedral archaeologist”.
- (3) For the headnote to section 12 of the 1990 Measure there shall be substituted the following headnote—

*“Provisions as to cathedral architects or surveyors
of the fabric and cathedral archaeologists”.*

13 Inventories and precinct plans

- (1) In section 13 of the 1990 Measure, for subsection (1) there shall be substituted the following subsections—
 - “(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) In section 13(3) of the 1990 Measure for the word “chapter”, in the first place where it occurs, there shall be substituted the words “corporate body”.

- (3) 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 archaeological 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”.
- (4) At the end of section 13 of the 1990 Measure there shall be added the following subsections—
- (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.”.

14 Reports and inspections of cathedral architects or surveyors of the fabric

For section 14 of the 1990 Measure there shall be substituted the following section—

“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.
- (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

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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.”.

15 Reports by cathedral archaeologists and maintenance of records

After section 14 of the 1990 Measure there shall be inserted the following sections—

“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) 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.

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.”.

16 Repeal of section 18 of 1990 Measure

Section 18 of the 1990 Measure is hereby repealed.

17 Amendment of Schedule 1 to 1990 Measure

- (1) Schedule 1 to the 1990 Measure shall have effect subject to the amendments specified in Part I of Schedule 1 to this Measure.
- (2) The transitional provision in Part II of Schedule 1 to this Measure shall have effect.

18 Amendment of Schedule 2 to 1990 Measure

- (1) Schedule 2 to the 1990 Measure shall have effect subject to the amendments specified in Part I of Schedule 2 to this Measure.
- (2) The transitional provision in Part II of Schedule 2 to this Measure shall have effect.

19 Other amendments

The enactments specified in Schedule 3 to this Measure shall have effect subject to the amendments specified in that Schedule.

20 Citation, interpretation and commencement

- (1) In this Measure “the 1990 Measure” means the Care of Cathedrals Measure 1990.
- (2) This Measure may be cited as the Care of Cathedrals (Amendment) Measure 2005 and this Measure may be cited with the Care of Cathedrals Measures 1990 and 1994 as the Care of Cathedrals Measures 1990 to 2005.

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- (3) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint and different days may be appointed for different provisions.