



# Church of England (Miscellaneous Provisions) Measure 2010

No. 1

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# Church of England (Miscellaneous Provisions) Measure 2010

2010 No. 1

A Measure to amend the New Parishes Measure 1943; to amend section 6 of the Church Commissioners Measure 1947; to amend section 2 of the Church Funds Investment Measure 1958; to amend section 21 of the Clergy Pensions Measure 1961; to amend section 2 of the Ecclesiastical Jurisdiction Measure 1963; to amend the Endowments and Glebe Measure 1976; to amend section 69 of the Pastoral Measure 1983; to amend Schedule 1 to the National Institutions Measure 1998; to amend section 24 of the Commons Act 2006; to make provision for gifts made to or for the benefit of the Church of England; to make provision for the status of corporate bodies of cathedrals and new provision with respect to canons in Christ Church cathedral; and for purposes connected therewith. [18th March 2010]

## **1 Amendment of New Parishes Measure 1943**

The New Parishes Measure 1943 (6 & 7 Geo. 6 No. 1) shall have effect subject to the amendments set out in Schedule 1.

## **2 Amendment of Church Commissioners Measure 1947**

In section 6(3B)(a) of the Church Commissioners Measure 1947 (10 & 11 Geo. 6 No. 2) for the words “section 11(2)” there shall be substituted the words “paragraph (d)”.

**3 Amendment of Church Funds Investment Measure 1958**

In section 2 of the Church Funds Investment Measure 1958 (6 & 7 Eliz. 2 No. 1) paragraph (a) and, in paragraph (d), the words “the Central Board or” are hereby repealed.

**4 Amendment of Clergy Pensions Measure 1961**

In section 21 of the Clergy Pensions Measure 1961 (9 & 10 Eliz. 2 No. 3) after subsection (10) there shall be inserted the following subsection—

“(10A) The Board shall have power to appoint such committees and may delegate to them such functions as they think fit and persons who are not members of the Board may be appointed to any such committee.”.

**5 Amendment of Ecclesiastical Jurisdiction Measure 1963**

(1) Section 2 of the Ecclesiastical Jurisdiction Measure (1963 No. 1) shall be amended as follows—

- (a) in subsection (2), immediately before the word “holds” there shall be inserted the word “who”;
- (b) in subsection (4), for the words “at which a Circuit Judge is obliged to vacate that office”, in both places where they occur, there shall be substituted the words “of seventy years”; and
- (c) for subsection (4A) there shall be substituted the following subsection—

“(4A) Where the bishop of a diocese considers that there are special circumstances which make it desirable in the interests of the diocese to retain the chancellor of the diocese in office after the date on which he would otherwise retire in accordance with subsection (4), he may from time to time authorise the continuance in office of the chancellor after that date for such period or further periods, not exceeding one year in all, as he may specify.”.

(2) Subsection (1)(b) and (c) shall have effect in relation to any appointment of a chancellor made on or after 31st March 1995.

**6 Amendment of Endowments and Glebe Measure 1976**

The Endowments and Glebe Measure 1976 (1976 No. 4) shall be amended as follows—

- (a) in section 20(2A), for the word “(6A)” there shall be substituted the word “(6B)”, for the words “subsection (2)” there shall be substituted the words “subsections (1)(A) and (2)” and the words “or (2C)” shall be omitted; and
- (b) in section 23(2), after the word “Commissioners” there shall be inserted the words “, where that consent was required to the acquisition of the building or land”.

**7 Amendment of Pastoral Measure 1983**

Section 69 of the Pastoral Measure 1983 (1983 No. 1) shall be amended as follows—

- (a) at the end of subsection (1), there shall be added the following words—  
“Provided that, where an appeal has been brought against a draft scheme which implements the relevant recommendations, and Her Majesty in Council has not determined the appeal under section 9(4) or (6) within the period referred to in paragraph (d), that paragraph shall have effect as if that period had been extended to the date on which the decision on the appeal is delivered.”; and
- (b) at the end of subsection (3) there shall be added the following words—  
“or, where the proviso to subsection (1) applies, the date on which the decision of Her Majesty in Council on the appeal is delivered”.

## **8 Amendment of National Institutions Measure 1998**

In Schedule 1 to the National Institutions Measure 1998 (1998 No. 1), after paragraph 4 there shall be inserted the following paragraph—

- “4A (1) Elected members of the Council shall be elected in accordance with the Standing Orders of the General Synod.
- (2) Subject to sub-paragraph (3) below, if an elected member ceases to be a member of the House of the General Synod which elected that member, the member shall cease to be a member of the Council.
- (3) If an elected member ceases to be a member of the General Synod by virtue of the dissolution of that Synod, the member shall not cease to be a member of the Council by virtue of sub-paragraph (2) above, but if that member does not stand for re-election or is not re-elected to the General Synod an election to fill that member’s place as a member of the Council shall be held in accordance with the Standing Orders of the General Synod.”.

## **9 Gifts to the Church of England**

Any gift which—

- (a) is expressed as a gift to or for the benefit of the Church of England or expressed in words substantially to the like effect, and
  - (b) takes effect on or after the coming into force of this section,
- shall, in the absence of any contrary intention, be construed and take effect as a gift to or for the benefit of the Archbishops’ Council, but subject to any trusts or other conditions expressed in the instrument by which the gift is made.

## **10 Cathedrals**

- (1) It is hereby declared that the corporate body of a cathedral established under section 9(1)(a) of the Cathedrals Measure 1999 (1999 No. 1) is an ecclesiastical corporation for the purposes of section 96(2) of the Charities Act 1993 (c. 10).
- (2) For section 43 of the Cathedrals Measure 1963 (1963 No. 2) there shall be

substituted the following section –

**“43 Further provisions as to Oxford**

- (1) The bishop shall have power after consulting, first, the dean and then the dean and chapter, to appoint non-residentiary canons in the cathedral church of Christ in Oxford as follows –
  - (a) not more than 35 who are clerks in holy orders either of the Church of England or of a Church in communion with the Church of England,
  - (b) not more than 10 lay canons, being lay persons who are actual communicants within the meaning of the Church Representation Rules contained in Schedule 3 to the Synodical Government Measure 1969 and who, in the opinion of the bishop, have given distinguished service to the diocese of Oxford or to the cathedral church and who have an active commitment to and concern for the life of the cathedral church and its mission and service, and
  - (c) not more than 5 persons who shall be known as “ecumenical canons”, being persons who are baptised and members in good standing of a Church (not in communion with the Church of England) which subscribes to the doctrine of the Holy Trinity.
- (2) A non-residentiary canon appointed under subsection (1)(a) or under subsection (1) as originally enacted shall, unless the bishop otherwise determines, vacate that office –
  - (a) on ceasing to be beneficed, or licensed to serve, in the diocese of Oxford, or
  - (b) on attaining the age of 70 years,whichever event first occurs.
- (3) A non-residentiary canon appointed under subsection (1)(b) or (c) shall hold that office in accordance with the terms of his or her appointment, which shall be specified by the bishop and agreed by him with the dean and chapter of the cathedral church and the terms of appointment shall specify the duration of the appointment, the circumstances in which it can be terminated and such other conditions as the bishop thinks fit.
- (4) The bishop may confer the title of canon emeritus in the cathedral church on any non-residentiary canon who vacates that office under subsection (2) or in accordance with subsection (3).
- (5) The dean and chapter of the cathedral church may, after consulting the bishop, confer the title of canon emeritus on –
  - (a) any former residentiary canon of the cathedral church,
  - (b) any former canon who filled the additional canonry created under section 42, and
  - (c) any former lay canon appointed in accordance with section 2 of the Church of England (Miscellaneous Provisions) Measure 1995 (1995 No. 2).
- (6) Subsection (5) applies whether the former canon held office before or after the coming into force of section 10 of the Church of England (Miscellaneous Provisions) Measure 2010 (2010 No. 1).

- (7) There shall be a college of canons of the cathedral church, the membership of which shall consist of—
    - (a) the dean,
    - (b) every suffragan bishop of the diocese of Oxford,
    - (c) every full-time stipendiary assistant bishop of the diocese,
    - (d) every canon (including any lay canon), and
    - (e) every archdeacon of the diocese.
  - (8) The College of Canons shall—
    - (a) receive and consider any report of the dean and chapter relating to the management and activities of the cathedral church, including any financial statement, and
    - (b) discuss such matters concerning the cathedral church as may be raised by any of the members.
  - (9) Without prejudice to subsection (8), the rights and duties of non-residentiary canons and of canons emeriti in the cathedral church shall be determined from time to time by the dean and chapter of the cathedral church with the agreement of the bishop.
  - (10) If a question arises whether a Church is in communion with the Church of England for the purposes of subsection (1) that question shall be determined in like manner as it is determined for the purposes of the Overseas and Other Clergy (Ministry and Ordination) Measure 1967 (1967 No. 3).
  - (11) In this section “the dean and chapter” means the body consisting of the dean and all the residentiary canons, including the canon who fills the additional canonry created under section 42.”.
- (3) The Care of Cathedrals Measure 1990 (1990 No. 2) shall be amended as follows—
- (a) after section 2(1)(a)(iii) there shall be added the following subparagraph—
    - “(iv) any human remains within the precinct of the cathedral church, or”;
  - (b) in section 3(2)(a) after the word “archaeological” there shall be inserted the words “or human”;
  - (c) in section 6(1)(a)(iii) after the word “archaeological” there shall be inserted the words “or human”;
  - (d) in section 11A(d) after the word “archaeological” there shall be inserted the words “or human”; and
  - (e) in section 13(4) for the words “archaeological remains” there shall be substituted the words “archaeological or human remains”.

## 11 Amendment of Commons Act 2006

In section 24(9) of the Commons Act 2006 (c. 26), for the words “Church Commissioners” there shall be substituted the words “Diocesan Board of Finance for the diocese in which the land is situated” and any Regulations made under that section shall have effect accordingly.

**12 Consequential amendments and repeals**

- (1) In section 1(6) of the Parsonages Measure 1938 (1 & 2 Geo. 6 No. 3) –
  - (a) in the definition of “connected person”, after the word “bishop,” there shall be inserted the words “the registered patron,”, after the word “parent,” there shall be inserted the word “grandchild,” and after the word “concerned” there shall be inserted the words “or of the registered patron”; and
  - (b) in the definition of “qualified surveyor”, for the words from “fellow” to “Auctioneers” there shall be substituted the words “person who is a member of the Royal Institution of Chartered Surveyors”.
- (2) In section 8(2) and (3) of the Church Property (Miscellaneous Provisions) Measure 1960 (8 and 9 Eliz. 2 No. 1), for the word “Commissioners”, in each place where it occurs, there shall be substituted the words “diocesan board of finance”.
- (3) In section 76(1) of the Pastoral Measure 1983 (1983 No. 1), for the words from “the Commissioners” to the end of the subsection there shall be substituted the words “the diocesan board of finance under section 14(1) of the New Parishes Measure 1943 or make a declaration under section 14(3B) of that Measure for any of the purposes mentioned in section 13 of that Measure, being purposes falling within the purposes for which the buildings or land are or is held before the grant or declaration”.
- (4) The enactments specified in Schedule 2 are hereby repealed to the extent specified in the second column of that Schedule.

**13 Citation, commencement and extent**

- (1) This Measure may be cited as the Church of England (Miscellaneous Provisions) Measure 2010.
- (2) This Measure shall come into force on such day as the Archbishops of Canterbury and York shall jointly appoint, and different days may be appointed for different provisions.
- (3) This Measure shall extend to the whole of the provinces of Canterbury and York, except that it shall only extend to the Isle of Man and the Channel Islands in accordance with the following provisions of this section.
- (4) This section and sections 2, 4 and 8 shall extend to the Isle of Man and, if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, sections 3, 5 and 7 shall extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument.
- (5) This Measure, except sections 2, 5, 8, 10 and 11, may be applied to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either of them, in accordance with those Measures.

## SCHEDULES

### SCHEDULE 1

Section 1

#### AMENDMENT OF NEW PARISHES MEASURE 1943

- 1 The New Parishes Measure 1943 (6 & 7 Geo. 6 No. 1) shall be amended as follows.
- 2 In section 13—
  - (a) in subsection (1), for the words “The Commissioners” there shall be substituted the words “Subject to subsections (1A) and (1B) below, the diocesan board of finance”;
  - (b) after subsection (1), there shall be inserted the following subsections—
    - “(1A) The consent of the Commissioners shall be required to the exercise of any power to purchase buildings or land under subsection (1) unless—
      - (a) no person who is a connected person or a trustee for, or nominee of, a connected person is a party to the proposed transaction, and
      - (b) the person or body in whom or which, under section 16 of this Measure, the buildings or land are or is to vest has obtained and considered a written report on the proposed transaction from a qualified surveyor instructed by and acting exclusively for that person or body and decided that he, she or it is satisfied, having considered the surveyor’s report, that the terms on which the transaction are proposed to be made are the best that can reasonably be obtained for that person or body.
    - (1B) In subsection (1A)—
      - (a) “connected person” means the incumbent, the bishop, the registered patron, any member, officer, agent or employee of the parochial church council of any parish within the benefice in question or of the diocesan board of finance or of the registered patron or the spouse or civil partner or any child, parent, grandparent, grandchild, brother or sister of any such person; and
      - (b) “qualified surveyor” means a person who is a member of the Royal Institution of Chartered Surveyors reasonably believed by the person or body in whom or which the buildings or land are or is to vest to have ability in, and experience of, the

valuation of property of the particular kind, and in the particular area, concerned.”;

- (c) in subsection (2), for the word “Commissioners” there shall be substituted the words “diocesan board of finance”; and
- (d) subsection (3) shall be omitted.”

3 In section 14—

- (a) in subsection (1), for the word “Commissioners”, in the first place where it occurs, there shall be substituted the words “diocesan board of finance”;
- (b) in subsection (2), for the words “Church Commissioners” there shall be substituted the words “diocesan board of finance” and for the word “them” there shall be substituted the word “it”;
- (c) in subsection (3), for the word “Commissioners” there shall be substituted the words “diocesan board of finance”; and
- (d) after subsection (3) there shall be inserted the following subsections—

“(3A) The powers conferred by this section to grant buildings or land shall apply to grants to a Parsonages Board for the diocese for the purposes of its functions under the Ecclesiastical Offices (Terms of Service) Measure 2009 (2009 No. 1) as they apply to grants to the diocesan board of finance.

(3B) Where any buildings or land vested in the diocesan board of finance are or is to be appropriated to any of the uses specified in section 13(1) the board shall execute a declaration specifying that use and, thereupon, the buildings or land to which the declaration relates shall vest in the incumbent or diocesan authority, as the case may be, in accordance with section 16.”.

4 In section 15, for the word “Commissioners”, in each place where it occurs, there shall be substituted the words “diocesan board of finance” and, in subsection (3), for the word “them” there shall be substituted the word “it” and for the word “are” there shall be substituted the word “is”.

5 In the heading to section 16, for the word “Commissioners” there shall be substituted the words “diocesan board of finance”.

6 In section 17—

- (a) in subsection (1), at the end of paragraph (i) of the Proviso the word “and” shall be omitted, in paragraph (ii) the words “the Commissioners and” and the words after “bishop” shall be omitted, at the end of paragraph (ii) the word “and” shall be added and, at the end of the Proviso, there shall be added the following paragraph—

“(iii) where the sale, exchange, appropriation, transfer or reconveyance takes place in the circumstances mentioned in subsection (1A), the consent of the Commissioners”;

- (b) after subsection (1) there shall be inserted the following subsection—

“(1A) The circumstances referred to in paragraph (iii) of the Proviso to subsection (1) are that a person who is a connected person

within the meaning of section 13(1B) or a trustee for, or nominee of, a connected person is a party to the transaction or that the person or body carrying out the transaction has not obtained and considered a written report on the proposed transaction from a qualified surveyor instructed by and acting exclusively for that person or body or having obtained such a report, has not decided that he, she or it is satisfied, having considered the surveyor's report, that the terms on which the transaction are proposed to be made are the best that can reasonably be obtained for that person or body.”;

- (c) subsection (2) shall be omitted;
  - (d) in subsection (3)(b), for the words “Commissioners are” there shall be substituted the words “diocesan board of finance is” and for the word “Commissioners”, in the second place where it occurs, there shall be substituted the words “diocesan board of finance”; and
  - (e) in subsection (4), for the word “Commissioners”, in both places where it occurs, there shall be substituted the words “diocesan board of finance” and for the word “them” there shall be substituted the word “it”.
- 7 In section 20 –
- (a) for the word “Commissioners”, in each place where it occurs, there shall be substituted the words “diocesan board of finance”;
  - (b) in subsection (1) for the word “their” there shall be substituted the word “its”; and
  - (c) in subsection (5) for the word “them” there shall be substituted the word “it”.
- 8 In section 21 –
- (a) in the heading, for the words “Ecclesiastical Commissioners” there shall be substituted the words “diocesan board of finance”;
  - (b) for the word “Commissioners”, in both places where it occurs, there shall be substituted the words “diocesan board of finance”; and
  - (c) for the word “their” there shall be substituted the word “its”.
- 9 In section 29(1), after the definition of “bishop” there shall be inserted the following definitions –
- “the expression “Commissioners” means the Church Commissioners;
  - the expression “diocesan board of finance” means the diocesan board of finance for the diocese in which the property in question is situated;”.
- 10 In section 31, for the words “the Commissioners” there shall be substituted the words “the diocesan board of finance”.

## SCHEDULE 2

Section 12

## REPEALS

<i>Measure</i>	<i>Extent of repeal</i>
The New Parishes Measure 1943, 6 & 7 Geo. 6 No. 1	Section 13(3). Section 16(1A). Section 17(2). Section 19.
2006 No. 1, The Church of England (Miscellaneous Provisions) Measure 2006	In Schedule 5, paragraph 13.

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