



# Care of Cathedrals Measure 2011

2011 No. 1

## PART 4

### MISCELLANEOUS AND GENERAL

#### **21 Further powers of the Cathedrals Fabric Commission**

- (1) The Commission may, on receiving a request from the Church Buildings Council, 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 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 on behalf of the Archbishops' Council 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 or surveyors of the fabric, cathedral archaeologists and others concerned with the care, conservation and maintenance of cathedral churches.

## 22 General duties of approval bodies

The Commission, any fabric advisory committee and any Commission of Review shall, without prejudice to the duty imposed upon them by section 1, 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 or human remains in or under the cathedral church or within its precinct; and
- (e) any objects referred to in section 2(1)(b).

## 23 Provisions as to cathedral architects or surveyors of the fabric and cathedral archaeologists

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

## 24 Inventories

- (1) It shall be the duty of the Chapter of a cathedral, in accordance with rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991, to compile and maintain an inventory of all objects—
  - (a) the property in which is vested in the corporate body, or
  - (b) which are in the possession or custody of the corporate body, or
  - (c) 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.
- (2) The compilation of the inventory under subsection (1) 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.
- (3) 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 12 months preceding the report.
- (4) 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) which the committee considers, after consultation with

the Commission, to be of outstanding architectural, archaeological, artistic or historic interest.

## **25 Precinct plans**

- (1) It shall be the duty of the 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 corporate body and the administrator shall send the plan to the Commission.
- (2) On receiving a plan prepared by the Chapter under subsection (1), the Commission shall, after consultation with the Chapter, indicate thereon the precinct of the cathedral church for the purposes of this Measure, which shall consist of so much of the land referred to in subsection (1) as, in the opinion of the Commission, is necessary to preserve or protect—
  - (a) the architectural, archaeological, artistic or historic character of—
    - (i) the cathedral church,
    - (ii) any buildings of architectural, archaeological, artistic or historic interest associated with it,
    - (iii) any archaeological or human remains associated with or situated in, under or near to the cathedral church or any such buildings, and
  - (b) the setting of the cathedral church and any such buildings and remains.
- (3) In implementing the requirements of subsection (2), the Commission shall have regard to the context in which the cathedral church and any such buildings as are referred to in that subsection have developed over time.
- (4) The Chapter shall keep the plan prepared under subsection (1) 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 subsections (2) and (3).
- (5) The Commission may, after consultation with the Chapter, make such alterations to the precinct indicated on the plan prepared under subsection (1) as it considers appropriate, having regard to subsections (2) and (3).

## **26 Reports and inspections by cathedral architects or surveyors of the fabric**

- (1) Subject to subsection (3), it shall be the duty of the Chapter of a cathedral to arrange during the period of 5 years beginning with 1st January 2008 and during every subsequent period of 5 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—
  - (a) 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
  - (b) 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), the reports referred to in subsection (1) 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 him or her to fulfil the requirements of subsection (1).

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

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- (3) The first report referred to in subsection (1) made by a cathedral architect or surveyor of the fabric appointed after 1st January 2008 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 2 years beginning with the date of the appointment.
- (4) In its application to a cathedral architect or surveyor of the fabric appointed after 1st January 2008, subsection (1) 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 5 years beginning with the date of the first report and every subsequent period of 5 years.
- (5) The cathedral architect or surveyor of the fabric shall, within the period of 12 months beginning with 1st January 2008 and annually thereafter, make, in consultation with the architect or surveyor appointed under section 20 of the Cathedrals Measure 1999 (1999 No. 1) (if a different person) and the cathedral archaeologist (if any), a report in writing to the Chapter containing—
  - (a) a summary of any works to the cathedral church and any ancillary building carried out during the preceding year,
  - (b) an account of progress made in giving effect to the recommendations made in the reports referred in subsection (1), and
  - (c) 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.

## **27 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 26(5) or 28(3) 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 5 years beginning with 1st January 2008 and during every subsequent period of 5 years, to make a report in writing to the fabric advisory committee of the records made under paragraph (a) and on the arrangements for maintaining those records and to send a copy of the report to the Commission.

## **28 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 2 years beginning with 1st January 2008 for the cathedral archaeologist—

- (a) to assess those matters of archaeological interest which relate to the cathedral church and its precinct, including buildings within the precinct and remains in or under the cathedral church or within its precinct, and
  - (b) 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 to them.
- (2) A copy of the report referred to in subsection (1)(b) shall be sent to the Commission.
- (3) The cathedral archaeologist shall, by 1st January 2010 and annually thereafter, make in consultation with the persons referred to in subsection (1) a report to the Chapter containing an account of progress made in fulfilling the recommendations of the report referred to in subsection (1) and any other matters which the archaeologist considers to be relevant to the archaeological interest of the cathedral church and its precinct.

## **29 Applications for listed building or scheduled monument consent**

Where the Chapter of a cathedral church proposes to make any application for—

- (a) listed building consent under section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990, 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 administrator shall send to the Commission a notice stating that representations in writing with respect to the proposed application may be sent to him or her before the end of the prescribed period.

## **30 Notices**

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

## **31 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 Chapter of that cathedral church.

## **32 Interpretation**

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

“administrator of the cathedral” means the person, by whatever name called, appointed under section 9(1)(e) of the Cathedrals Measure 1999;

“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 Architects Act 1997 (c. 22);

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

“cathedral archaeologist” means the person appointed under section 23(2), by whatever name called, being a person who possesses such qualifications and expertise in archaeological matters as the Commission may recognise as appropriate;

“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, and
- (b) the cathedral church in the diocese of Sodor and Man;

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

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

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

“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 Part I of the Town and Country Planning Act 1990 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, the Twentieth Century Society 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 purposes of this Measure;

“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 25;

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

“special visitation” means a special visitation under section 16.

- (2) For the purposes of this Measure any object or structure permanently situated in 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 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.

### **33 Repeals**

The enactments mentioned in Schedule 3 are repealed to the extent specified in the second column of that Schedule.

### **34 Short title and commencement**

- (1) This Measure may be cited as the Care of Cathedrals Measure 2011.
- (2) 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.