



# Mission and Pastoral Measure 2011

2011 No. 3

## PART 5

### CONTENTS AND EFFECT OF PASTORAL SCHEMES AND ORDERS

#### *Churches, churchyards and parsonage houses*

#### **41 Provisions as to parish churches**

- (1) A pastoral scheme may, in relation to any parish, including a new parish to be created by the scheme or a parish the area of which is to be altered by the scheme —
  - (a) designate as the parish church or as an additional parish church, or as parish churches or additional parish churches, any church or churches in the parish;
  - (b) provide for a church in the parish which immediately before the scheme comes into operation is a parish church to cease to be a parish church;
  - (c) provide for a new church and for it to become, after its approval by the bishop, after consultation with the diocesan advisory committee and the mission and pastoral committee as suitable to be a parish church and its consecration, the parish church, or an additional parish church, of the parish either in substitution for an existing parish church or otherwise;
  - (d) require the bishop to notify the Commissioners of his approval of a building or church as suitable to be a parish church and of its consecration.
- (2) The designation by a pastoral scheme as a parish church of a building which immediately before the scheme comes into operation is not a parish church shall not take effect unless and until it has been approved by the bishop, after consultation with the diocesan advisory committee and the mission and pastoral committee, as suitable to be a parish church and, if necessary, the building has been consecrated.
- (3) If the area of a parish is altered by a pastoral scheme but no provision with respect to the churches in that area is made by the scheme, every church in that area shall have the same status on and after the date on which the scheme comes into operation as it had immediately before that date.

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- (4) Where, in a parish which has no parish church, a church is approved by the bishop, after consultation with the diocesan advisory committee and the mission and pastoral committee as suitable to be a parish church and is consecrated, it shall become the parish church of that parish.
- (5) Where by virtue of a designation made by a pastoral scheme or otherwise a parish has more than one parish church, the following provisions shall apply—
  - (a) the parishioners of the parish shall have the same rights of worship in each of the parish churches;
  - (b) marriages may be solemnized in any of the parish churches, and the bishop may give directions under section 23 of the Marriage Act 1949 (12, 13 & 14 Geo. 6 c. 76), as extended by paragraph 12(4) of Schedule 3 to this Measure, with respect to the publication of banns and solemnization of marriages in the parish churches;
  - (c) burial rights shall not be affected by the designation, but shall be governed by paragraph 13 of Schedule 3;
  - (d) the powers, duties and liabilities of the parochial church council of the parish shall extend to each of the parish churches;and the pastoral scheme may make such other adaptations or modifications of enactments relating to parish churches or churchwardens (including this section) as may be necessary or expedient.
- (6) It shall be lawful in any church designated by a pastoral scheme as a parish church or becoming a parish church under this section, to publish banns of matrimony, solemnize marriages and perform all other such ecclesiastical offices as may be performed in a parish church.
- (7) A pastoral scheme may provide for determining claims to sittings and other claims in respect of a church designated by a pastoral scheme as a parish church or becoming a parish church under this section.
- (8) A pastoral scheme may provide for transferring to a church designated by such a scheme as a parish church or becoming a parish church under this section register books or records from any other church ceasing to be a parish church or otherwise affected by or in pursuance of that or any other pastoral scheme or for those books or records to be dealt with as the bishop of the diocese in which that other church is may direct under section 19 of the Parochial Registers and Records Measure 1978 (1978 No. 2).

In this subsection “register books” and “records” have respectively the same meanings as in that Measure.

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**Commencement Information**

**II** S. 41 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

## **42 Closure of churches for regular public worship**

- (1) A pastoral church buildings scheme may make a declaration of closure for regular public worship in respect of—
  - (a) a church which is not required as a parish church or chapel of ease or will cease to be so required as a result of any provision of the scheme; or

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- (b) any part of a church (being a parish church or chapel of ease) which is no longer required for use as a part of the church or will cease to be so required as a result of any provision of the scheme;  
and in that case provision may be made in accordance with Part 6, either by the scheme (in the circumstances specified in sections 58 and 59) or by a scheme made under Part 6 for the use, the care and maintenance, the vesting in the diocesan board of finance or the demolition of the church or part of the church to which the declaration relates (in this Measure referred to as the building closed for regular public worship), and also for dealing with a churchyard or other land annexed or belonging to the church.
- (2) A declaration of closure for regular public worship may be made in respect of a parish church notwithstanding that the parish will have no parish church when the declaration takes effect, and the status of the parish shall not be affected by the lack of a parish church.
- (3) As from the date when a declaration of closure for regular public worship takes effect in respect of the whole of a church, the church shall be closed for public worship except as may be provided under Part 6.

#### Commencement Information

**I2** S. 42 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

### 43 Places of worship

- (1) Where a parish has no church, the bishop shall make provision for public worship according to the rites and ceremonies of the Church of England by licensing one or more buildings or parts of buildings for public worship.
- (2) The bishop may designate any church in any parish, other than a parish church, or any building or part of a building licensed for public worship in any parish, as a parish centre of worship and thereupon, but subject to subsections (3) and (4), for the purposes of—
  - (a) the Marriage Act 1949 and paragraph 12 of Schedule 3 to this Measure,
  - (b) any other enactment (including this Measure), or rule of law requiring or authorising any service or ceremony to be held or notices to be affixed or other thing done in or at the parish church or a parish church,a church, building or part of a building so designated shall be deemed, while the designation is in force, to be a parish church.
- (3) Where a church, building or part of a building in a parish has been so designated and the parish has no parish church, then, if the persons to be married so elect, they may proceed under sections 6 and 15 of the Marriage Act 1949 (which contain provisions whereby parishes in which there is no parish church are deemed to belong to adjoining parishes) as if the church, building or part had not been so designated; and this subsection shall have effect notwithstanding that there is in the parish a church or chapel licensed for marriages or a church or chapel in which divine service is usually solemnized every Sunday.
- (4) A building or part of a building so designated shall not by virtue only of the designation be subject to the faculty jurisdiction, but without prejudice to the power of the bishop

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under [F1 section 59 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018] to direct that it shall be so subject.

- (5) A designation under this section may be revoked by the bishop, but without prejudice to the continuation in force of any licence thereunder, if the bishop thinks fit.
- (6) Any such designation or revocation shall be under seal and shall be registered in the registry of the diocese, and the registrar of the diocese shall give public notice of the designation or revocation in one or more newspapers circulating in the locality.

#### Textual Amendments

**F1** Words in s. 43(4) substituted (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), s. 99(2), [Sch. 3 para. 17](#) (with [Sch. 4 Pt. 1](#)); [S.I. 2018/720](#), art. 2

#### Commencement Information

**I3** S. 43 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

## 44 Use of certain churchyards and burial grounds

- (1) Subject to the following provisions of this section, a pastoral scheme may provide for the appropriation of the whole or any part of—
  - (a) a churchyard or other land annexed or belonging to a church or to a parish church cathedral within the meaning of the Cathedrals Measure 1963 (1963 No. 2), or
  - (b) any burial ground vested in the incumbent of the benefice but not annexed or belonging to a church, or
  - (c) any other burial ground which is subject to the jurisdiction of the bishop of any diocese,
 to such use or uses as may be specified or generally described in the scheme, and the scheme may provide for the disposal of any such property for any such use or uses or without limitation of use.
- (2) Subsection (1) shall not apply to a churchyard or other land annexed or belonging to a church to which a declaration of closure for regular public worship relates unless the scheme by which provision was made for the use, the care and maintenance, the vesting in the diocesan board of finance or the demolition of the church contained no provision for dealing with the land which is to be the subject of the proposed scheme.
- (3) In the case of a churchyard or other land annexed or belonging to a church or a burial ground adjacent to a church, the pastoral scheme shall make such provision as appears to the bishop and the Commissioners to be desirable for safeguarding the use and amenities of the church or to be necessary for preserving a right of access to any grave in that land or burial ground.
- (4) A scheme providing for the matters referred to in this section shall have effect notwithstanding section 3 of the Disused Burial Grounds Act 1884 (47 & 48 Vict. c. 72) (which prohibits the erection of buildings on disused burial grounds), if one or other of the following conditions is satisfied, namely—
  - (a) that no person has been buried in any of the land to which the provisions apply during the period of fifty years immediately before the making of the scheme; or

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- (b) that no relative or personal representative of any deceased person buried in the land during that period has objected to the draft scheme, or all such objections have been withdrawn;
- and that section shall otherwise apply.
- (5) Any scheme providing for the matters referred to in this section may also make provision for the vesting of the property and for applying in relation thereto, with such modifications as may be specified in the scheme, any of the provisions of Part 6 relating to the appropriation, disposal and vesting of property, rights of way and other easements, the removal of the legal effects of consecration and the imposing of covenants; and the provisions of Part 6 relating to the disposal of human remains shall apply to the property.
- (6) In this section “burial ground” means any land set apart and consecrated for the purpose of burials whether or not burials have taken place in the land.
- [<sup>F2</sup>(7) In this section “relative”, in relation to a person, means—
- (a) a spouse or civil partner, parent or grandparent or child or grandchild of the person, or
  - (b) a person who is, or is the child of, a brother, sister, uncle or aunt of the person.
- (8) The reference in subsection (7)(a) to a person's spouse includes a reference to a spouse of the same sex as that person.]

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**Textual Amendments**

**F2** S. 44(7)(8) inserted (1.9.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020](#) (No. 1), **ss. 6(9)**, 16(3); [S.I. 2020/835](#), art. 2

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**Commencement Information**

**I4** S. 44 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

## 45 Parsonage houses

- (1) A pastoral scheme may provide for any of the following matters—
- (a) the designation of any house belonging to a benefice as the place of residence of the incumbent of any benefice created or affected by the scheme or of the incumbent of any benefices to be held in plurality, by or by virtue of the scheme;
  - (b) the designation of any house as the place of residence of any vicar in a team ministry established for the area of any benefice by or by virtue of the scheme;
  - (c) the transfer to the incumbent of any benefice as his official residence, or as a site therefor, of a parsonage house, part of a parsonage house, a house situated on diocesan glebe land, any parsonage land or any diocesan glebe land [<sup>F3</sup>or any land held by a Parsonages Board for the purposes of its functions under the Ecclesiastical Offices (Terms of Service) Measure 2009];
  - (d) the transfer of a parsonage house, part of a parsonage house [<sup>F4</sup>, a house or part of a house which, before it became diocesan glebe land under a pastoral scheme, was a parsonage house or part of a parsonage house] or any parsonage land to the diocesan board of finance to be held by the board as part of the diocesan glebe land of the diocese or for disposal in accordance with paragraph 8 of Schedule 3 or for use for parochial or diocesan purposes.

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- [<sup>F5</sup>(e) the transfer of a parsonage house, part of a parsonage house or any parsonage land to a Parsonages Board for the purposes of its functions under the Ecclesiastical Offices (Terms of Service) Measure 2009.]
- (2) The power under paragraph (a) or (b) of the preceding subsection to designate a house as the place of residence of an incumbent or a vicar in a team ministry shall be without prejudice to the subsequent exercise of any power to dispose of the house or to the subsequent exercise by the bishop of any power he may have to give directions as to the place where the incumbent or vicar is to reside.
- (3) Where in exercise of the power under paragraph (d) of subsection (1) a parsonage house or part thereof is to be transferred to the diocesan board of finance, but any land held with that house is not to be so transferred, the pastoral scheme which provides for the transfer may also provide that that land shall be deemed to be parsonage land for the purposes of [<sup>F6</sup>the Church Property Measure 2018].
- (4) In this section “diocesan glebe land” and “parsonage land” have the same meanings respectively as in that Measure.

#### Textual Amendments

- F3** Words in s. 45(1)(c) added (1.7.2012) by [The Ecclesiastical Offices \(Terms of Service\) \(Consequential Provisions\) Order 2012 \(S.I. 2012/992\)](#), arts. 1(2), 2, **Sch. para. 4(a)**
- F4** Words in s. 45(1)(d) inserted (19.5.2014) by [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), s. 21(2), **Sch. 2 para. 19(6)**; S.I. 2014/1369, art. 2
- F5** S. 45(1)(e) added (1.7.2012) by [The Ecclesiastical Offices \(Terms of Service\) \(Consequential Provisions\) Order 2012 \(S.I. 2012/992\)](#), arts. 1(2), 2, **Sch. para. 4(b)**
- F6** Words in s. 45(3) substituted (1.3.2019) by [Church Property Measure 2018 \(No. 8\)](#), s. 53(2), **Sch. 1 para. 24**; S.I. 2019/97, art. 2

#### Commencement Information

- I5** S. 45 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

**Changes to legislation:**

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