

# Mission and Pastoral Measure 2011

2011 No. 3

## PART 6

### BUILDINGS CLOSED FOR REGULAR PUBLIC WORSHIP

*Appointment of statutory bodies for buildings closed for regular public worship*

#### **55 Functions of mission and pastoral committee concerning buildings closed for regular public worship**

- (1) The mission and pastoral committee shall be under a duty, in respect of each building proposed to be closed or closed for regular public worship (except where it is proposed to close a building and make provision for the future of the building under section 58)
  - (a) in the case of a listed building or a building situated in a conservation area, to make every endeavour to find a suitable alternative use or suitable alternative uses for the building, and
  - (b) in the case of any other building, to develop proposals for the suitable alternative use or uses of the building or for the demolition of the building and disposal of its site.
- (2) In carrying out its functions under this section the mission and pastoral committee shall obtain advice from the Commissioners, persons having expertise in the management, development and disposal of property and such other professional advisers as it thinks fit.
- (3) The mission and pastoral committee shall report to the Commissioners at such times as it thinks appropriate on the progress made in discharging its duties under subsection (1) and, in any case, within the period of six months from its last report, and also when required to do so by the Commissioners.
- (4) When the mission and pastoral committee has found a suitable alternative use or suitable alternative uses for the building or has reached the conclusion that no such

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use can be found or has developed proposals in accordance with subsection (1)(b) it shall report to the Commissioners with its recommendations or proposals.

- (5) The Commissioners may, in the case of any building closed for regular public worship, require the mission and pastoral committee to refer the case to them and, thereupon, the duties under subsection (1) shall be discharged by the Commissioners instead of the committee, but the Commissioners shall, in carrying out that duty, consult the committee.

**Commencement Information**

**I1** S. 55 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**56 Commissioners to appoint Committee with duties in respect of buildings closed for regular public worship**

- (1) The Board of Governors of the Commissioners shall appoint a Committee of the Board for the purpose of exercising on behalf of the Commissioners such functions as the Board may assign to them in relation to buildings closed for regular public worship and the preparation of pastoral (church buildings disposal) schemes, including functions under section 55.
- (2) The Commissioners shall constitute a majority of the members of the Committee but, subject to that, the Committee may include persons who are not Commissioners.
- (3) The Church Commissioners Measure 1947 (10 & 11 Geo. 6 No. 2) shall apply to the Committee appointed under this section as it applies to other committees of the Board, and the Commissioners may pay a salary to one of the members of the Committee.

**Commencement Information**

**I2** S. 56 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**57 Appointment of Churches Conservation Trust**

- (1) There shall be a body corporate called the Churches Conservation Trust, with perpetual succession and a common seal.
- (2) The Churches Conservation Trust shall consist of a person to be known as the “Chair” and not less than four [<sup>F1</sup>nor more than eleven other members], and the Chair and other members shall be appointed by Her Majesty, and before any such appointment the advice of the Archbishops of Canterbury and York shall be submitted to Her Majesty through the Prime Minister.
- (3) Schedule 5 shall apply to the constitution and procedure of the Churches Conservation Trust.
- (4) The Churches Conservation Trust shall have as its object the preservation, in the interests of the nation and the Church of England, of churches and parts of churches of historic and archaeological interest or architectural quality vested in the Trust by this Part, together with their contents so vested.
- (5) The Churches Conservation Trust shall have power—

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- (a) to hold and manage all churches and parts of churches and other property vested in the Trust by this Part or acquired under subsection (6) and, in particular, to carry out all necessary works of maintenance and repair in respect of that property and to replace, renew and provide or improve such services or facilities as are required to facilitate greater access to and use of that property;
- (b) to acquire property (including rights of way) where the Trust considers that to do so would assist it in the exercise of its powers under paragraph (a);
- (c) to permit the occasional use of property, or to grant a licence permitting the temporary use of property, vested in the Trust for purposes considered by the Trust to be suitable and, in any case, either without charge or on payment of a fee;
- (d) to let any property vested in the Trust on such terms (including terms as to the purposes for which it may be used) as the Commissioners may approve, after consultation with the bishop and the Church Buildings Council through its Statutory Advisory Committee, being terms which the Commissioners consider reasonable and proper having regard to all the circumstances;
- (e) in respect of any property which the Trust has let or is proposing to let under paragraph (d), to carry out such works as the Trust considers desirable, after consultation with the Church Buildings Council through its Statutory Advisory Committee;
- (f) to charge entrance fees for admission to any property vested in the Trust, to raise money by public subscription and appeals, and to accept gifts and bequests either for the general purposes of the Trust or on specific trusts for purposes falling within the general purposes;
- (g) to assist, on payment of a fee, in the management of any place of Christian religious worship (not being a church or part of a church) which is vested in any body entrusted with functions similar to those of the Trust;
- (h) to administer all sums coming into its hands and to invest as provided in subsection (8) any sums not immediately required for the purposes of the Trust;
- (i) to appoint a secretary and such other officers and agents as the Trust considers necessary for the proper discharge of its duties;
- (j) to delegate functions to local trustees or bodies.

[<sup>F2</sup>(5A) The Churches Conservation Trust shall have power, with the consent of the Commissioners, to transfer, by way of grant, property or funds held by it, other than any church building, to such charitable foundations as it thinks fit.

(5B) The Churches Conservation Trust shall have power, with the consent of the Commissioners, to dispose of any fixtures, fittings or other contents of a church building vested in the Trust under this Part or acquired by the Trust under subsection (6).]

(6) Where the freehold interest in a building or any land annexed or belonging thereto has been disposed of under a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies and the owner of that freehold interest is unable for any reason to use the building for the use specified in the scheme including any use allowed under any covenant imposed in relation to the scheme under section 74 and is willing to dispose of the freehold interest by way of gift, the Churches Conservation Trust may, with the prior consent in writing of the

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- Commissioners, acquire the freehold by way of gift but, before consenting to such an acquisition, the Commissioners shall—
- (a) consult the bishop and the Church Buildings Council through its Statutory Advisory Committee; and
  - (b) be satisfied that the Churches Conservation Trust will have the resources to meet the cost of maintaining the church closed for regular public worship.
- (7) The Commissioners shall seal the deed of transfer of any land acquired under subsection (6).
- (8) The powers to invest any sums referred to in subsection (5)(h) are—
- (a) power to invest in investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (c. 29) (as restricted by sections 4 and 5 of that Act); and
  - (b) power to invest in the investments referred to in paragraph 21(1)(e) and (f) of the Schedule to the Church Funds Investment Measure 1958 (6 & 7 Eliz. 2 No. 1).
- (9) The powers conferred on the Churches Conservation Trust by subsection (5)(c) and (d) may be exercised so as to permit the use of a church or part of a church vested in the Trust for such worship (including worship by persons belonging to other Christian Churches) as may be authorised by the bishop after consulting the incumbent or priest in charge of the benefice in the area of which the church is situated.
- (10) The terms of a lease granted under subsection (5)(d) in respect of any property may provide that the property shall not be subject to the legal effects of consecration during the currency of the lease, notwithstanding the provisions of section 74(2).
- (11) Where any such property has been let under subsection (5)(d) and the terms of the lease provide to the effect that no alteration may be made to it without the approval of the Churches Conservation Trust, its approval shall only be given after consultation with the Church Buildings Council through its Statutory Advisory Committee.
- (12) A statement in a document signed by the secretary or other duly authorised officer of the Commissioners that the Commissioners have approved the terms of any lease granted under subsection (5)(d) which is specified in the document shall be conclusive evidence that those terms have been so approved.
- (13) As a condition of giving their approval to the terms of any lease under subsection (5)(d) the Commissioners may require the Churches Conservation Trust to include in the lease such provisions, if any, as appear to them to be necessary to give effect to those terms.
- (14) The Churches Conservation Trust may contribute to the cost of the care and maintenance of a church or part of a church vested in a diocesan board of finance under this Part pending the making or coming into operation of arrangements under a pastoral (church buildings disposal) scheme.
- (15) All expenditure of the Churches Conservation Trust shall be defrayed out of the sums in its hands.
- (16) The Churches Conservation Trust shall give to the Commissioners and to the Church Buildings Council through its Statutory Advisory Committee such information and advice as the Commissioners or the Council may, from time to time, require about—
- (a) the Trust's financial position generally; and

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- (b) the estimated cost of repairing and thereafter maintaining any church or part of a church which is proposed to be vested in the Trust or which the Commissioners consider is likely to be proposed for vesting in the Trust.
- (17) If—
- (a) the Church Buildings Council has prepared a report, under section 21(7), about a church in respect of which the mission and pastoral committee is considering whether to make a recommendation that a declaration of closure for regular public worship be made, and
- (b) the Commissioners, after consulting the Council through its Statutory Advisory Committee, are of the opinion that, in the event of the church being closed for regular public worship and no suitable or appropriate alternative use being found for it, it is likely that the building is of such historic and archaeological interest or architectural quality that it ought to be preserved in the interests of the nation and of the Church of England,
- the Commissioners may, with the consent of the mission and pastoral committee, and subject to any conditions or limitations which they may specify, request the Churches Conservation Trust to give advice to them and, if specified, advice or assistance to any other specified person or body, in identifying and developing proposals for any use or uses of the church, or any part of it, which would be consistent with the primary use of the church as a whole as a place of worship and which would have the object of ensuring the continuance of that use.
- (18) Notwithstanding subsection (4), the Trust shall have power to give such advice and assistance as is described in subsection (17).
- (19) The Commissioners may make grants out of their general fund in respect of the expenditure of the Churches Conservation Trust:
- Provided that the total amount of the grants made in any funding period shall not exceed the figure determined in respect of that period in accordance with section 65.
- (20) The Churches Conservation Trust shall, as soon as possible after the end of each accounting year, transmit a copy of its accounts for that year and a report on its proceedings during that year to the Commissioners and to the Church Buildings Council; and in this subsection “accounting year” means the period of twelve months beginning on a date to be determined by the Trust with the agreement of the Commissioners.
- (21) The Churches Conservation Trust shall transmit copies of the said accounts and report to the Secretary of State and the Secretary of State shall lay copies thereof before each House of Parliament and the Commissioners shall transmit copies of the said accounts and report to the Secretary General of the General Synod and the Secretary General shall lay copies thereof before the General Synod.

#### Textual Amendments

- F1** Words in s. 57(2) substituted (1.7.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018](#) (No. 4), [ss. 8, 14\(3\)](#); [S.I. 2018/722](#), [art. 2\(b\)](#)
- F2** S. 57(5A)(5B) inserted (19.5.2014) by [Church of England \(Miscellaneous Provisions\) Measure 2014](#) (No. 1), [s. 21\(2\)](#), [Sch. 2 para. 19\(7\)](#); [S.I. 2014/1369](#), [art. 2](#)

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#### Commencement Information

**I3** S. 57 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

### *Provisions for future use of buildings closed for regular public worship in pastoral church buildings schemes*

#### **58 Provision by pastoral church buildings scheme for appropriation or demolition of church to be closed for regular public worship to be replaced by new church**

- (1) Where the Commissioners are satisfied that a new church or place of worship is to be provided in the area of a benefice to take the place of a church building or church buildings in that area which should thereupon be declared closed for regular public worship and where the Commissioners, after consulting the Church Buildings Council through its Statutory Advisory Committee, are satisfied with the proposals made for the future of the church building or any of the church buildings to be closed, then a pastoral church buildings scheme may further provide—
  - (a) for the appropriation of the building to be closed in accordance with section 63(1)(a) or for its demolition, and for any of the matters mentioned in section 63(2), (3) or (4);
  - (b) for the payment to the Commissioners of the proceeds of any sale or exchange of the building or the site thereof, or any part of the building or site, with or without any land annexed or belonging thereto, and the premiums on any lease or licence of the building or site or any part of the building or site with or without any such land; and
  - (c) subject to subsection (4), for the application of the net proceeds and net premiums to defray the cost of providing the new church or place of worship and, if the whole amount thereof is not required for that purpose, for the payment of two-thirds of the balance to the diocesan pastoral account and for the application by the Commissioners of the remaining one-third in accordance with section 64.
- (2) A pastoral church buildings scheme which provides for the demolition of a building closed for regular public worship may provide for its demolition by the diocesan board of finance.
- (3) Where a pastoral church buildings scheme makes such provision as is mentioned in subsection (1), the declaration of closure for regular public worship shall not take effect until the new church or place of worship is provided unless the Commissioners are satisfied that, if the church or any of the churches to be replaced is disposed of or demolished before such provision, a suitable building will be available in the interim period, not necessarily in the same parish, for use in place of that church.
- (4) Where before a declaration of closure for regular public worship is made by a pastoral church buildings scheme under this section in respect of a church which was the subject of a sharing agreement under the Sharing of Church Buildings Act 1969 (c. 38) and which on the termination of the agreement was vested in an incumbent by section 9(3) of that Act, any contribution in the nature of capital made in accordance with the agreement by any party thereto, other than a party acting on behalf of the Church of England, or so much thereof as the Commissioners may determine, may be repaid to that party by the Commissioners out of the proceeds of any sale or exchange, or the premiums on any lease or licence, of that church, any part of that church, or the

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site thereof before the net proceeds or net premiums, as the case may be, are applied in accordance with subsection (1)(c).

- (5) References in this section to the provision of a new place of worship shall be construed as including references to the provision of such a place by adapting, improving or repairing an existing building.
- (6) In this section “place of worship” means a building licensed by the bishop for public worship in accordance with the rites and ceremonies of the Church of England, being a building used wholly for the purposes of such worship and purposes ancillary thereto, or partly for those purposes and partly for other ecclesiastical purposes of the parish or purposes ancillary thereto, and includes a building which, pursuant to an agreement under the Sharing of Church Buildings Act 1969, is to be used as a place of worship jointly with another church and is to be owned by the Church of England only or to be jointly owned by that Church and any other Church.

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**Commencement Information**

**14** S. 58 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

## **59 Other provision by pastoral church buildings scheme for church to be closed for regular public worship**

- (1) Where a pastoral church buildings scheme makes a declaration of closure of a church for regular public worship in respect of any church or part of a church, not being a case to which section 58 applies, and the Commissioners are satisfied that a suitable use or uses will be available for the building to be closed for regular public worship when the declaration takes effect, the pastoral church buildings scheme may provide for the appropriation of the building to the said use or uses, and may make further provision for any of the matters mentioned in section 63(2) and section 63(5) to (11) shall apply accordingly.
- (2) Where a pastoral church buildings scheme makes a declaration of closure for regular public worship in respect of any church or part of a church and the Commissioners are satisfied that no suitable or appropriate alternative use will be available for the building to be closed for regular public worship when the declaration takes effect, then, if it appears to the Commissioners—
  - (a) after consultation with the Church Buildings Council through its Statutory Advisory Committee that the building is of such historic and archaeological interest or architectural quality that it ought to be preserved in the interests of the nation and the Church of England; and
  - (b) that the Churches Conservation Trust will have the resources to meet the cost of repairing and maintaining it,the scheme may provide for its care and maintenance by the Trust.
- (3) Where a pastoral church buildings scheme provides for the care and maintenance of a building to be closed for regular public worship or any part thereof by the Trust, the scheme may also provide for the care and maintenance by the Trust of the whole or any part of the land annexed or belonging to the building or the church of which the building is part, and may so provide notwithstanding that the land is or has been used for burials.

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- (4) Where a pastoral church buildings scheme contains a declaration of closure of a church for regular public worship and the church is neither a listed building nor situated in a conservation area, and the Commissioners are satisfied with the proposals for the future of the building, the scheme may provide for the demolition of the building to be closed for regular public worship and for any of the matters for which section 63(4) makes provision and section 63(5) to (11) shall apply accordingly.

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**Commencement Information**

**I5** S. 59 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**60 No other cases to be dealt with by pastoral church buildings schemes**

[<sup>F3</sup>(1)] Except in the cases specified in sections 58 and 59 and without prejudice to the provisions relating to the restoration of a building closed for regular public worship to use as a church, no further provision beyond the declaration of closure for regular public worship itself shall be made by a pastoral church buildings scheme with respect to the building closed for regular public worship, but such provision shall be made by the following provisions of this Part and schemes made under it (in this Measure referred to as pastoral (church buildings disposal) schemes).

- [<sup>F4</sup>(2) Accordingly, where a pastoral church buildings scheme makes a declaration of closure for regular public worship in respect of a church or part of a church, but the Commissioners are not satisfied with the proposals for the future use of the building—
- (a) the scheme may nevertheless have effect but only in so far as it provides for closure of the church or part, and
  - (b) provision as to the use of the building shall instead be made in accordance with the following provisions of this Part.]

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**Textual Amendments**

**F3** S. 60 renumbered as s. 60(1) (1.10.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), [ss. 9, 14\(3\)](#); [S.I. 2018/722](#), [art. 3\(g\)](#)

**F4** S. 60(2) inserted (1.10.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), [ss. 9, 14\(3\)](#); [S.I. 2018/722](#), [art. 3\(g\)](#)

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**Commencement Information**

**I6** S. 60 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

*Pastoral (church buildings disposal) schemes*

**61 Use seeking period**

- (1) Where a declaration of closure for regular public worship is made in a case to which neither section 58 nor section 59 applies, the building closed for regular public worship, together with the contents thereof, shall, when the declaration takes effect, vest by virtue of this Measure, without any conveyance or other assurance, in the diocesan board of finance:



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Provided that the Commissioners shall not prepare a pastoral (church buildings disposal) scheme in respect of a building closed for regular public worship for a period of six months after the declaration takes effect if the scheme provides for the demolition of a building which is either a listed building or is situated in a conservation area, unless the Commissioners are satisfied, after consulting the Church Buildings Council through its Statutory Advisory Committee, that, at that stage, there is no objection to the demolition taking place.

- (2) During the period between the taking effect of a declaration of closure for regular public worship and the coming into operation of a pastoral (church buildings disposal) scheme with respect to the building closed for regular public worship—
- (a) the diocesan board of finance shall be responsible for the care and maintenance of the building closed for regular public worship, so far as is reasonable in all the circumstances, and the safe keeping of its contents, whether in the building or elsewhere, and shall insure the said building and contents;
  - (b) the said board may without obtaining a faculty, but after consulting the diocesan advisory committee and the chancellor of the diocese unless the board considers that, having regard to the urgency of the need to safeguard the contents, it is not practicable to do so, transfer the contents of the building closed for regular public worship or any of them to some other place for safe keeping until the coming into operation of the scheme;
  - (c) the said board may with the consent of the bishop and of the incumbent or priest in charge of the benefice in the area of which the building closed for regular public worship is situated permit the building to be used occasionally for worship, including worship by persons belonging to other Christian Churches;
  - (d) while incurring no financial obligation, the incumbent or priest in charge and churchwardens of the parish in which the building closed for regular public worship is situated shall give the diocesan board of finance every assistance in providing for reasonable supervision of the building against damage.
- (3) On a declaration of closure for regular public worship taking effect, any liability of a parochial church council or rector (including a lay rector) for the repair and maintenance of the building closed for regular public worship and the safe keeping of its contents shall cease, and [F5sections 45 to 48 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018] shall cease to apply to the building.
- (4) Where the diocesan board of finance transfers any of the contents of the building closed for regular public worship to some other place, the board shall serve a notice on the Commissioners, the Church Buildings Council, the Churches Conservation Trust and the registrar of the diocese informing them of the transfer and giving particulars of the contents transferred and the address of the place in question, and shall serve a similar notice on any incumbent, priest in charge, parochial church council or sequestrators concerned.

#### Textual Amendments

- F5** Words in s. 61(3) substituted (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), s. 99(2), [Sch. 3 para. 18](#) (with [Sch. 4 Pt. 1](#)); S.I. 2018/720, art. 2

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#### **Commencement Information**

**I7** S. 61 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

## **62 Procedure for making pastoral (church buildings disposal) schemes**

- (1) The Commissioners may at any time or, where the proviso to section 61(1) applies, after the period of six months mentioned therein has expired, and shall in any case not later than two years after the declaration of closure for regular public worship takes effect, prepare a draft scheme with respect to the building closed for regular public worship providing for any of the matters mentioned in section 63:

Provided that if before the end of the period of two years it is found to be impracticable to prepare the draft scheme before that period expires, and it seems to the Commissioners, after consulting the diocesan board of finance, reasonable to do so, they may, with the consent of the bishop, postpone the preparation of the draft scheme for such minimum further period or periods as they find to be necessary.

- (2) Before preparing any such draft scheme which provides for the demolition or the care and maintenance by the Churches Conservation Trust of the building closed for regular public worship or any part of it the Commissioners shall consult the Church Buildings Council through its Statutory Advisory Committee:

Provided that if the Council has advised that the demolition of the building closed for regular public worship or part of it would not in its opinion be objectionable this subsection shall not apply in relation to that building or part, as the case may be.

- (3) After preparing the draft scheme and before proceeding under the following provisions of this section the Commissioners shall consult the bishop.
- (4) After taking into account any comments made by the bishop, if they decide to proceed with the draft scheme, the Commissioners shall serve a copy of the draft scheme on the diocesan board of finance, the local planning authority or authorities concerned, the parish council or parish meeting concerned, the Commonwealth War Graves Commission, English Heritage, the Joint Committee of the National Amenity Societies and the Church Buildings Council and, if the draft scheme provides for the care and maintenance by the Churches Conservation Trust of the building closed for regular public worship or any part thereof, on that Trust.
- (5) The Commissioners shall also publish in one or more newspapers circulating in the locality in which the building closed for regular public worship is situated a notice stating the effect of the draft scheme and naming a place or places where a copy thereof may be inspected, and stating that written representations with respect to the draft scheme may be made to the Commissioners not later than a date specified in the notice, being a date not less than twenty-eight days after the first publication of the notice.
- (6) Where the draft scheme makes or is to make any such provision as is referred to in section 63(1)(a) and it is proposed to make any architectural or structural changes in the building closed for regular public worship or any part of it to facilitate the use or uses referred to in that section, the Commissioners shall not make the scheme unless they have first consulted the Church Buildings Council through its Statutory Advisory Committee on those proposed changes.
- (7) The Commissioners shall consider any representations duly made with respect to the draft scheme and any unforeseen change of circumstances affecting its

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- implementation, and may decide not to proceed with it or to amend it or to proceed with it in its original form, and shall consult the bishop before making their decision.
- (8) The Commissioners may, if they think fit, afford an opportunity to any person, whether he has made written representations or not, to make oral representations with respect to the draft scheme.
- (9) The Commissioners may, before or after the period within which written representations may be made under this section, extend that period, and any representations made within the period so extended shall be deemed to be duly made.
- (10) The Commissioners may at any time make such amendments to the draft scheme as may appear to them to be necessary for the purposes of correcting any drafting mistake or omission.
- (11) If the Commissioners decide to proceed with the draft scheme, they shall seal a copy thereof, with such amendments (if any) as they may have made, and shall thereby make the scheme.
- (12) If the Commissioners decide in accordance with subsection (7) not to proceed with a draft scheme they shall as soon as possible prepare a new draft scheme, and subsections (2) to (11) shall apply.
- (13) Sections 14 and 27 shall apply, with the necessary modifications, to schemes under this section as they apply to pastoral church buildings schemes.

**Commencement Information**

**I8** S. 62 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

### **63 Contents of pastoral (church buildings disposal) schemes**

- (1) A pastoral (church buildings disposal) scheme shall make the following provision for the building closed for regular public worship, that is to say—
- (a) if a use or uses appearing to the Commissioners to be suitable have been found for the building or any part of it, the scheme may provide for appropriating the building or part to such use or uses, which shall be specified or generally described in the scheme;
- (b) if such use or uses cannot be found for the building or a part of it and it appears to the Commissioners—
- (i) after consultation with the Church Buildings Council through its Statutory Advisory Committee that the building is of such historic and archaeological interest or architectural quality that it ought to be preserved in the interests of the nation and the Church of England; and
- (ii) that the Churches Conservation Trust will have the resources to meet the cost of repairing and maintaining it,
- the scheme may provide for its care and maintenance by the Trust.
- (c) if the building or any part of it is not appropriated or provided for under paragraph (a) or (b) the scheme may, with the consent of the diocesan board of finance, provide for the building or any part of it to remain vested in that board and to be held by them on such terms as may be specified in the scheme;

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- (d) if the building or any part of it is not appropriated or provided for under paragraphs (a) to (c), the scheme shall provide for its demolition either by the Commissioners or by the diocesan board of finance.
- (2) Where a pastoral (church buildings disposal) scheme provides for the appropriation of the building closed for regular public worship or any part of it to a use or uses specified or described in the scheme, the scheme may also provide—
- (a) for appropriating the whole or any part of the land annexed or belonging to the building or the church of which it forms part, to a use or uses so specified or described;
  - (b) for empowering the diocesan board of finance itself to use or hold the property concerned for the use or uses so specified or described or to let or license the property for such use or uses or partly the one and partly the other;
  - (c) for empowering the Commissioners or the diocesan board of finance, subject to any conditions prescribed by the scheme, to sell, give or exchange the property concerned or any part of it for such use or uses.
- (3) Where a pastoral (church buildings disposal) scheme provides for the building closed for regular public worship or any part of it to remain vested in the diocesan board of finance, the scheme may also provide—
- (a) for appropriating the whole or any part of the land annexed or belonging to the building, or the church of which it forms part, to a use or uses specified or described in the scheme;
  - (b) for empowering the board itself to use or hold that land or any part of it for the use or uses so specified or described or to let or license it for such use or uses or partly the one and partly the other;
  - (c) for empowering the Commissioners, subject to any conditions prescribed by the scheme, to sell, give or exchange that land or any part of it for such use or uses;
  - (d) for transferring to the board responsibility for the care and maintenance of that land or any part of it;
- and the scheme may provide as mentioned in paragraph (d) notwithstanding that the land is or has been used for burials.
- (4) Where a pastoral (church buildings disposal) scheme provides for the demolition of the building closed for regular public worship or any part of it, it may also provide—
- (a) for the sale, gift, exchange or lease by the Commissioners or the diocesan board of finance, as the case may be, of the site or part of the site of the demolished building or part of the building, with or without the whole or any part of the land annexed or belonging to the building or to the church of which it forms part;
  - (b) for the disposal of the materials arising from the demolition;
  - (c) for specifying the use or uses for which any land sold, given, exchanged or let by the Commissioners or the diocesan board of finance, as the case may be, is to be used or allowing it to be used without limitation;
  - (d) for appropriating the site or any part of it for use as part of the churchyard or burial ground or for other ecclesiastical purposes of the parish.
- (5) The proceeds of any sale or exchange under subsection (2), (3) or (4) and the premiums on any lease or licence under those subsections shall be paid to the Commissioners, who, subject to subsections (6), (7), (8) and (9) and to an appropriate order made under section 65(1)(b), shall pay two-thirds of the net proceeds and net premiums to the

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- diocesan pastoral account and shall apply the remaining one-third in accordance with section 64, and the net rent payable under any such lease or licence shall be paid into the said account.
- (6) Where in exercise of the power conferred on the Churches Conservation Trust by section 57(14) the Trust has contributed to the cost of the care and maintenance of a church or part of a church, then, unless that church or part is vested in the Trust, the sum contributed by the Trust under that subsection, or so much of it as the Commissioners may, with the agreement of the Secretary of State, determine, shall be repaid to the Trust by the Commissioners out of the proceeds of any sale or exchange, or the premium on any lease or licence, of that church or part or the site thereof under subsection (2), (3) or (4) before the net proceeds or net premiums, as the case may be, are paid or applied in accordance with subsection (5).
- (7) Where in exercise of the power referred to in subsection (6) the Churches Conservation Trust has contributed to the cost of the care and maintenance of a church or part of a church, not being a church or part which is vested in the Trust, and the church or part or the site thereof is let or licensed by the diocesan board of finance under subsection (2), (3) or (4) or let by the Commissioners under subsection (4), the net rent from time to time paid under those subsections shall be paid by the said board or the Commissioners, as the case may be, to the Trust until the sum contributed by the Trust, or so much of it as the Commissioners may, with the agreement of the Secretary of State, determine, has been repaid to the Trust out of such rent.
- (8) Where before a declaration of closure for regular public worship was made in respect of a church or part of a church that church or part was the subject of a sharing agreement under the Sharing of Church Buildings Act 1969, and on the termination of the agreement it was vested in an incumbent by section 9(3) of that Act, any contribution in the nature of capital made in accordance with the agreement by any party thereto, other than a party acting on behalf of the Church of England, or so much of it as the Commissioners may determine, may be repaid to that party by the Commissioners out of the proceeds of any sale or exchange, or the premiums of any lease or licence, of that church or part or the site thereof under subsection (2), (3) or (4) before the net proceeds or net premiums, as the case may be, are paid or applied in accordance with subsection (5).
- (9) Where a pastoral church buildings scheme makes a declaration of closure for regular public worship in respect of a church and the Commissioners are satisfied that a new church or place of worship is to be provided in the area of the benefice in which the first-mentioned church is situated to take the place of that church, then, if any subsequent pastoral (church buildings disposal) scheme which makes provision, within the period of three years from the declaration of closure or such longer period as the Commissioners may allow, for the building closed for regular public worship also provides for any of the matters authorised to be included in the scheme by subsection (2)(b) or (c), subsection (3)(b) or (c) or subsection (4)(a) or (b)—
- (a) the proceeds of any sale or exchange made, and the premiums of any lease or licence granted, by virtue of those provisions shall be paid to the Commissioners in accordance with subsection (5) of this section, but
  - (b) the net proceeds and net premiums shall be applied in accordance with section 58(1)(c) and not in accordance with subsection (5).
- (10) In negotiating the sale or other disposal of any property under subsection (2), (3) or (4), the Commissioners shall consult the diocesan board of finance.

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- (11) Where a pastoral (church buildings disposal) scheme makes provision for any land which has been used for burials, that provision shall have effect notwithstanding section 3 of the Disused Burial Grounds Act 1884 (which prohibits the erection of buildings upon 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 during the period of 50 years immediately before the making of the scheme, or
  - (b) that no relative or personal representative of a deceased person buried in the land during that period has objected to the draft scheme, or all such objections have been withdrawn,
- and the said section shall otherwise apply.
- (12) Where a pastoral (church buildings disposal) scheme provides for the care and maintenance of the building closed for regular public worship or any part of it by the Churches Conservation Trust, the scheme may also provide for the care and maintenance by the Trust of the whole or any part of the land annexed or belonging to the building or the church of which the building is part, and may so provide notwithstanding that the land is or has been used for burials.
- (13) For the purposes of this section and of sections 58 and 59, and without prejudice to the generality of the provisions thereof, the use of a building or part of a building for such special or occasional religious worship as may be authorised by the bishop, or its use as a place of religious worship for a university, college, school or other institution, or its use for religious worship by any Church other than the Church of England, shall be a use to which a building closed for regular public worship or a part of it may be appropriated by a pastoral church buildings or pastoral (church buildings disposal) scheme, and the consent of the incumbent or priest in charge of the benefice in the area of which the building is situated shall not be required for any such use.
- (14) Section 52 shall apply to pastoral (church buildings disposal) schemes in like manner as it applies to pastoral church buildings schemes, with the omission of the reference to the agreement of the bishop or bishops concerned.

**Commencement Information**

**19** S. 63 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**64 Application of remainder of proceeds of sales and other disposals**

- (1) The Commissioners shall allocate the moneys comprised in the remaining one-third of the net proceeds and net premium, or the balance thereof, mentioned in sections 58(1) and 63(5), in such proportions as they may determine between the Churches Conservation Trust, the temporary maintenance account and the diocesan pastoral accounts of such dioceses as they may determine, subject in the case of any amounts allocated to the Churches Conservation Trust, to any order made under section 65(1).
- (2) In exercising their duty to allocate moneys under subsection (1) the Commissioners may decide not to allocate moneys to any or all of the accounts mentioned in that subsection, in which case all the moneys not so allocated shall be paid to the Churches Conservation Trust.

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**Commencement Information**

**II0** S. 64 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**65 Orders of Commissioners determining or varying payments to Churches Conservation Trust**

- (1) The Commissioners by order—
  - (a) shall determine the funding periods for the purposes of this Part and in respect of each funding period the total amount (comprising grants made under section 57(19) and moneys allocated under section 64(1)) to be paid by the Commissioners to the Churches Conservation Trust;
  - (b) may in respect of any funding period vary the proportions of two-thirds and one-third specified in sections 58(1) and 63(5).
- (2) An order made under subsection (1) may specify conditions which must be satisfied before a payment is made by the Commissioners.
- (3) An order made under subsection (1)(b) shall apply to all transactions completed after the date on which the order comes into operation, except such transactions (if any) as may be specified in the order.
- (4) An order under this section may be varied or revoked by a subsequent order made under it and the subsequent order may contain such transitional provisions as the Commissioners may consider necessary or expedient to give effect to the variation or revocation.
- (5) Every order made under this section shall be laid before the General Synod and shall not come into operation unless and until it has been approved by the General Synod.
- (6) Where the Business Committee of the General Synod determines that an order made under this section does not need to be debated by the General Synod, then, unless notice is given by a member of the General Synod in accordance with its Standing Orders that he or she wishes the order to be debated, the order shall for the purposes of subsection (5) be deemed to have been approved by the General Synod.
- (7) The Statutory Instruments Act 1946 (9 & 10 Geo. 6 c. 36) shall apply to any order approved by the General Synod under subsection (5) as if it were a statutory instrument and were made when so approved, and 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.

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**Commencement Information**

**III** S. 65 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**66 Pastoral (church buildings disposal) schemes in respect of churches closed or demolished otherwise than under this Measure**

- (1) Where the bishop of a diocese certifies that a church in his diocese or any part of such a church has not been used for divine service since 1st April 1964, and the incumbent (if any), the patron and the parochial church council of the parish in which the church

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is situated give their consent, the Commissioners may make an order declaring the church or part to be closed for regular public worship and thereupon this Part shall apply as if the declaration were a declaration of closure for regular public worship made by a pastoral church buildings scheme.

- (2) Where any church or part of a church has at any time been demolished otherwise than under this Part, a pastoral (church buildings disposal) scheme providing for all or any of the matters mentioned in section 63(4) may at any time after the demolition, be prepared and made in accordance with subsections (2) to (11) of section 62 and subsection (13) of section 62 shall apply.
- (3) Where by virtue of subsection (2) a pastoral (church buildings disposal) scheme provides for any of the matters mentioned in section 63(4)(a), section 63(5) shall apply in relation to the proceeds and net proceeds of any sale or exchange, and to the premiums and net premiums on any lease, of the site or part of the site of the church or part of the church to which the scheme applies as it applies where a pastoral (church buildings disposal) scheme which provides for the demolition of a building closed for regular public worship also provides for any of those matters:

Provided that, where the Commissioners are satisfied that a new church or place of worship is to be provided in the area of the benefice in which a demolished church was situated, to take the place of the demolished church, the net proceeds and the net premiums shall be applied in accordance with section 58(1)(c).

**Commencement Information**

**I12** S. 66 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**67 Schemes under the Charities Act 1993 for redundant chapels belonging to charities**

- [<sup>F6</sup>(1) The power of the court (as defined by the Charities Act 2011) to make schemes under its jurisdiction with respect to charities, and the power of the Charity Commission to make schemes under that Act, shall extend to the making of schemes with respect to consecrated chapels belonging to charities which are no longer needed for the purposes of the charity, and section 10(2)(c) of that Act shall not be taken as preventing the making of any such scheme.]
- (2) Where a scheme is made under this section, the bishop may, if he thinks it proper to do so, by order under his seal direct that sections 74(1) and 78 of this Measure, if applicable, shall apply to the chapel as they apply to the buildings mentioned in those sections, and those sections shall thereupon apply accordingly, and the scheme, so far as it relates to the chapel, shall not have effect unless and until such an order is made, or the bishop directs that the scheme may have effect without such an order.
  - (3) A scheme made under this section may provide—
    - (a) for the demolition of the chapel and the disposal of the materials arising from the demolition;
    - (b) for the sale or other disposal of the chapel or site thereof and the application of the proceeds;
    - (c) for the appropriation of the chapel to such uses as may be specified or generally described in the scheme;
    - (d) for matters supplementary or incidental to any of those matters.



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- (4) For the purposes of this section a consecrated chapel held on charitable trusts for the purpose of religious worship by the beneficiaries and staff of a charity and not by the general public shall be deemed to belong to that charity, notwithstanding that the trusts on which the chapel is held are separate from those of the charity, but otherwise this section shall not apply to a chapel held on separate trusts relating to the use of the chapel for religious worship.
- (5) Section 66 shall not apply to any consecrated chapel belonging to a charity.

#### Textual Amendments

**F6** S. 67(1) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#) , s. 355 , [Sch. 7 para. 146](#) (with s. 20(2) , [Sch. 8](#) )

#### Commencement Information

**I13** S. 67 in force at 1.7.2012 by [S.I. 2012/1](#) , [art. 2](#)

## 68 Churches not to be closed or disposed of otherwise than under this Measure

- (1) It shall not be lawful to make any order or give any direction for closing a church on the ground that it is no longer required for use as a church, and the only procedure for closing a church on that ground shall be by way of a declaration of closure for regular public worship or the exercise of powers under section 67.
- (2) Subject to subsections (3) and (4), it shall not be lawful to sell, lease or otherwise dispose of any church or part of a church or the site or part of the site of any church or any consecrated land belonging or annexed to a church except in pursuance of powers under this Part or section 44.
- (3) Without prejudice to subsection (15)(a), on an application by the incumbent of the benefice comprising or including the parish in which the church is situated or, where the benefice is vacant, the bishop in the name and on behalf of the incumbent in the corporate capacity of the incumbent, the court may grant a faculty for a lease to be granted by the incumbent or, as the case may be, the bishop, of part of a church, provided that the court shall ensure that the premises remaining unlet, together with the premises let, under any lease or leases granted under this subsection, are, taken as a whole, used primarily as a place of worship.
- (4) On an application by any person referred to in subsection (3) the court may, whether or not it grants a faculty under that subsection, grant a faculty for the lease of any land belonging to or annexed to a church.
- (5) The parochial church council for the parish in which the church or land is situated shall be a party to any lease granted under subsection (3) or (4) and, without prejudice to the rights and obligations of the lessor, shall have the same rights as the lessor to enforce any term of the lease which may be binding on the lessee, including any rights to forfeit the lease or to distrain on the property of the lessee.
- (6) Subject to any directions of the court, any rent or other payment payable under any lease granted under subsection (3) or (4) shall be paid to the parochial church council.
- (7) Subject to subsections (6) and (8), any such lease shall be for such period, and may contain such terms, as the court may determine and the lease or any terms contained

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therein may be varied at any time by the court on application by any party to the lease or otherwise as authorised by the court.

- (8) Any such lease shall be deemed to contain the following terms—
- (a) in the case of a lease of part of a church granted under subsection (3), the premises which are the subject of the lease shall not be used for purposes which are, or in a way which is, inconsistent with the use specified in that subsection, and
  - (b) in the case of a lease granted under subsection (3) or (4), no use shall be permitted for residential purposes except by a person who, as an employee of the lessor or otherwise, is required, as a condition of the employment or contract, to reside in the premises or part thereof,

and the lease shall be deemed to contain a covenant on the part of the lessee to perform those terms.

- (9) Where any lease is granted under subsection (3) or (4)—
- (a) in the case of a lease of premises to trustees to be held on trust to be used for the purposes of a place of worship, the trustees shall not be entitled to exercise the right conferred by the Places of Worship (Enfranchisement) Act 1920 (10 & 11 Geo. 5 c. 56) to enlarge the leasehold interest by acquiring the freehold;
  - (b) in the case of a lease consisting of a tenancy of premises occupied or to be occupied wholly or partly for the purposes of a business, the tenancy shall not be subject to any provision of Part II of the Landlord and Tenant Act 1954 (2 & 3 Eliz 2 c. 56) under which the lease is continued until determined, or under which the tenant is entitled to apply to the court for the grant of a new tenancy, in accordance with the provisions of that Part; and
  - (c) in the case of a lease of land consisting of a tenancy which would, but for this subsection, be a farm business tenancy to which the Agricultural Tenancies Act 1995 (c. 8) applied, that Act shall not apply to the tenancy and, accordingly, the tenant shall not be entitled to exercise any of the rights conferred by Part I, II or III of that Act.

<sup>F7</sup>(10) .....

- (11) Where a lease has been granted under subsection (3) or (4) and, at any time, the benefice is vacant, the bishop in the name and on behalf of the incumbent in the incumbent's corporate capacity may exercise the power conferred on the lessor by subsection (7) to apply to the court for a variation of the lease or any terms therein and the lease shall be construed as if any reference in it to the incumbent were a reference to the bishop acting in the name and on behalf of the incumbent in the incumbent's corporate capacity.
- (12) Any question relating to the interpretation or enforcement of any term of any lease granted under subsection (3) or (4) shall be determined by the court and [<sup>F8</sup>section 26 of the 2018 Measure (costs)] shall apply in relation to proceedings under subsection (7) and this subsection as it applies to the [<sup>F9</sup>proceedings before a court exercising jurisdiction under that Measure] .
- (13) [<sup>F10</sup>Section 60(2)(a) and (3) to (8) of the 2018 Measure (parties to proceedings: role of archdeacon)] shall apply to proceedings under subsections (3), (4), (7) and (12) as they apply to other proceedings for a faculty.
- (14) In this section, except subsection (9)(b), “the court” means the consistory court of the diocese in which the building is situated or, in the case of the diocese of Canterbury,

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the commissary court of that diocese and [<sup>F11</sup>section 74 of the 2018 Measure (power of archdeacon to exercise faculty jurisdiction)] shall not apply to the jurisdiction of the courts conferred by the foregoing provisions of this section.

- (15) The foregoing provisions of this section shall not—
- (a) prevent the grant of a faculty authorising a suitable use of part of a church or the grant of any faculty in respect of any such land as aforesaid; or
  - (b) affect any powers under any Act of Parliament;
  - (c) affect the power of the bishop of a diocese under [<sup>F12</sup>section 92 of the 2018 Measure] to make an order directing that a building or land shall not be subject to the legal effects of consecration.
- (16) Where any church other than a church which has been declared closed for regular public worship is purchased compulsorily or is purchased by agreement under an enactment conferring powers of compulsory purchase, then for the purpose of any enactment applying to the disposal of sums paid to the Commissioners in respect of the purchase of the church or any land annexed or belonging thereto, or in respect of compensation for damage to other ecclesiastical property arising in connection with the purchase, the provisions of this Part relating to the disposal of the proceeds of sale of a building closed for regular public worship or any land annexed or belonging to a building closed for regular public worship shall be deemed not to be applicable.

[<sup>F13</sup>(17) In this section, “the 2018 Measure” means the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.]

#### Textual Amendments

- F7** S. 68(10) repealed (1.7.2018) by [Statute Law \(Repeals\) Measure 2018 \(No. 1\)](#), s. 2(3), [Sch. Pt. 5](#); S.I. 2018/718, art. 2
- F8** Words in s. 68(12) substituted (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), s. 99(2), [Sch. 3 para. 19\(2\)\(a\)](#) (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2
- F9** Words in s. 68(12) substituted (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), s. 99(2), [Sch. 3 para. 19\(2\)\(b\)](#) (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2
- F10** Words in s. 68(13) substituted (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), s. 99(2), [Sch. 3 para. 19\(3\)](#) (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2
- F11** Words in s. 68(14) substituted (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), s. 99(2), [Sch. 3 para. 19\(4\)](#) (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2
- F12** Words in s. 68(15)(c) substituted (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), s. 99(2), [Sch. 3 para. 19\(5\)](#) (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2
- F13** S. 68(17) inserted (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), s. 99(2), [Sch. 3 para. 19\(6\)](#) (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2

#### Commencement Information

- I14** S. 68 in force at 1.7.2012 by [S.I. 2012/1](#), art. 2

*Amendment and revocation of pastoral (church buildings disposal) schemes and provisions in pastoral church buildings schemes relating to closure of buildings for regular public worship*

## 69 Amendment of pastoral (church buildings disposal) schemes and provisions

- (1) A pastoral (church buildings disposal) scheme, and such provisions of a pastoral church buildings scheme as are made by virtue of section 58 or 59, may be amended

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by a subsequent pastoral (church buildings disposal) scheme prepared and made in accordance with subsections (2) to (11) of section 62, and subsection (13) shall apply.

- (2) An amending pastoral (church buildings disposal) scheme may revoke all or any provisions of the previous pastoral (church buildings disposal) scheme or, as the case may be, any such provisions of a pastoral church buildings scheme, and may substitute or add other provisions providing for any of the matters mentioned in section 63, so far as applicable, and may contain such transitional provisions as appear to the Commissioners to be necessary or expedient in consequence of the changes made by the amending scheme.
- (3) Without prejudice to the provisions of subsection (2), the Commissioners may, with the agreement of the Secretary of State, make an amending pastoral (church buildings disposal) scheme which provides—
  - (a) for empowering the Commissioners to sell, give or exchange any property vested in the Churches Conservation Trust, being a building closed for regular public worship or any part of it or any land annexed or belonging to the building or the church of which it forms part, for any use or uses which appear to the Commissioners to be suitable and which shall be specified or described in the scheme; and
  - (b) for empowering the diocesan board of finance to use or hold that property for any such use or uses, or to let or license it for that use or those uses, or partly the one and partly the other;

and the scheme may for that purpose provide that immediately before the date on which the property vests in the Commissioners under section 71(2) or in the diocesan board of finance under section 71(5), as the circumstances require, it shall cease to be vested in the Trust.

Before preparing a draft of such a scheme the Commissioners shall consult the Trust.

- (4) The proceeds of any sale or exchange made, and the premiums on any lease or licence granted, by virtue of subsection (3) shall be paid to the Commissioners, and out of those proceeds or premiums, as the case may be, the sum expended by the Churches Conservation Trust on the care and maintenance of the property to which the amending pastoral (church buildings disposal) scheme relates, or so much of it as the Commissioners may, with the agreement of the Secretary of State, determine, shall be repaid to the Trust by the Commissioners, and subject as aforesaid and to an appropriate order made under section 65(1)(b) the net proceeds or net premiums, as the case may be, shall be paid and applied in accordance with section 63(5).
- (5) Where any property to which the amending pastoral (church buildings disposal) scheme relates is by virtue of subsection (3) let or licensed by the diocesan board of finance, the net rent from time to time paid thereunder shall be paid by the board to the Churches Conservation Trust until the sum expended by the Trust on the care and maintenance of that property, or so much of that sum as the Commissioners may, with the agreement of the Secretary of State, determine, has been repaid to the Trust out of the rent.
- (6) A pastoral (church buildings disposal) scheme or any provision of it, and any such provision of a pastoral church buildings scheme as is referred to in subsection (1) may be amended or revoked under this section before it comes into operation.

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**Commencement Information**

**I15** S. 69 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

## **70 Restoration of building closed for regular public worship to use as church building**

A pastoral church buildings scheme may provide that a building closed for regular public worship or part of such a building which is vested in the Churches Conservation Trust or the diocesan board of finance or the Commissioners shall be restored to use as a church or part of a church, and may further provide—

- (a) for designating the church as a parish church or chapel of ease;
- (b) for vesting the building or part, with or without any land vested with the building or part, in the incumbent of the benefice in the area of which it is situated, or in such other person as may be specified in the scheme;
- (c) for such transitional, supplementary or consequential matters as appear to the Commissioners to be necessary or expedient;
- (d) for revoking the declaration of closure for regular public worship and revoking or amending any provisions, whether in a pastoral church buildings scheme or pastoral (church buildings disposal) scheme, made under this Part in relation to the building or part of the building closed for regular public worship.

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**Commencement Information**

**I16** S. 70 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

### *Vesting of property and other supplementary provisions*

## **71 Vesting of property**

- (1) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 applies provides for the demolition of the building closed for regular public worship or any part of it, the building or part and any land which under the scheme is to be sold, given, exchanged or let with the site of the demolished building or part shall, by virtue of this Measure, without any conveyance or other assurance, vest in the appropriate body on the date when the relevant provisions of the scheme come into operation.

In this subsection “the appropriate body” means the body, being either the Commissioners or the diocesan board of finance, by which in accordance with the scheme the building or part in question is to be demolished.

- (2) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies provides for empowering the Commissioners to sell, give or exchange the building closed for regular public worship or any part of it or any land annexed or belonging to the building or the church of which it forms part for a use or uses specified or described in the scheme, the building or part or land shall vest in the Commissioners on the date when the relevant provisions of the scheme come into operation.

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- (3) Where a pastoral (church buildings disposal) scheme or pastoral church buildings scheme to which section 58 or 59 applies provides for land annexed or belonging to a building closed for regular public worship to be appropriated to use as the site for a parsonage house or part of the house or as parsonage land the land shall on the date when any such provision comes into operation vest in the incumbent of the benefice in which the land is situated as property of the benefice and without any conveyance or further assurance.
- (4) Where a pastoral (church buildings disposal) scheme or pastoral church buildings scheme to which section 58 or 59 applies provides for land annexed or belonging to a building closed for regular public worship or the whole or part of the site of a demolished building or land annexed or belonging to it to be appropriated for any ecclesiastical purposes of the parish the land or site shall on the date when any such provision comes into operation vest in the diocesan board of finance without any conveyance or further assurance to be held on trust for the parochial church council for that parish to be used for those purposes.
- (5) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies provides for the use, holding, letting or licensing by the diocesan board of finance of the building closed for regular public worship or any part of it or any land annexed or belonging to the building or the church of which it forms part for a use or uses specified or described in the scheme, and the building or part or land is not, on the date when the relevant provisions of the scheme come into operation, vested in the board, it shall, by virtue of this Measure, without any conveyance or other assurance, vest in the board on that date.
- (6) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies provides for appropriating any land to use as part of a churchyard or burial ground, the land shall, on the date when the relevant provisions of the scheme come into operation, vest by virtue of this Measure, without any conveyance or other assurance, in the person in whom the churchyard or burial ground is vested.
- (7) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies provides for the care and maintenance by the Churches Conservation Trust of a building closed for regular public worship or any part of it or any land annexed or belonging to the building or the church of which it forms part, the building or part or land shall, by virtue of this Measure, without any conveyance or other assurance vest in the Trust.
- (8) Where a pastoral (church buildings disposal) scheme provides for transferring to the diocesan board of finance responsibility for the care and maintenance of any land annexed or belonging to a building closed for regular public worship or the church of which it forms part, the land shall, by virtue of this Measure, without any conveyance or other assurance, vest in the board.
- (9) Any property vesting under this section or under section 61(1) shall vest free of any trust or burial rights:

Provided that any person entitled to burial rights may claim compensation in respect of the loss of the rights, and any such claim in default of agreement shall be referred to and determined by the consistory court of the diocese, subject to an appeal to the Dean of the Arches and Auditor, and the amount of any compensation awarded shall

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be paid by the diocesan board of finance and the payment shall be treated as money expended on the property for the purpose of furthering its disposal or use.

- (10) The body in whom any property vests under this section or under section 61(1) shall be deemed to have an interest, for the purposes of faculty proceedings, in any other property so vested or any property formerly annexed or belonging to or held with property so vested.

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**Commencement Information**

**I17** S. 71 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

## 72 Rights of way and other easements

- (1) Where any land annexed or belonging to a church the whole or part of which is a building closed for regular public worship does not vest by virtue of this Measure, in the diocesan board of finance, the Commissioners or the Churches Conservation Trust, the pastoral (church buildings disposal) scheme or (in a case to which section 58 or 59 applies) the pastoral church buildings scheme may provide for conferring on any of the bodies in whom the building or the site of the building or any part of the building or site or any other land annexed or belonging to the church vests, such rights of way or other easements over or in the land not so vesting as appear to the Commissioners to be necessary—
- (a) to enable any property so vesting to be used for a use or uses specified or described in the pastoral church buildings scheme or the pastoral (church buildings disposal) scheme, or to facilitate such use;
  - (b) to enable any property so vesting which is to be sold, given, exchanged or let by the Commissioners (otherwise than for any such use), to be used for such purposes as appear to the Commissioners to be reasonable, or to facilitate such use; or
  - (c) to enable the Churches Conservation Trust to perform its functions with respect to any property so vesting in the Trust, including the giving of reasonable access to members of the public.
- (2) Where rights of way over land adjoining or adjacent to a church to which or to a part of which a declaration of closure for regular public worship relates were, before the declaration took effect, enjoyed by persons attending the church, and the church or part vests, by virtue of this Measure, in the Churches Conservation Trust or the diocesan board of finance, the said rights of way shall be enjoyed by the Trust or the board, as the case may be, so far as is necessary for the performance of its functions and by members of the public for the purpose of visiting the church.
- (3) Where rights of way or other easements have been acquired by the Commissioners under section 73 and land for the benefit of which the rights were acquired vests in the Churches Conservation Trust by virtue of this Measure those rights shall also vest in the Trust.

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**Commencement Information**

**I18** S. 72 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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### 73 Acquisition of rights of way and other easements

Where the Commissioners consider that it is necessary or appropriate to acquire any right of way or other easement for the benefit of land which has vested or is to vest in the Churches Conservation Trust by virtue of this Measure or is to be disposed of by them under this Measure they may acquire the right of way or easement in question.

#### Commencement Information

**I19** S. 73 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

### 74 Removal of legal effects of consecration of buildings and land

- (1) Where any consecrated building or part of a building or land is vested in the Commissioners under section 71 or is appropriated to a use or uses specified or described in a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies or is vested in the diocesan board of finance in pursuance of a pastoral (church buildings disposal) scheme, then, unless the scheme otherwise provides—
  - (a) the building or part of a building or land shall not be subject to the legal effects of consecration; and
  - (b) in particular, the jurisdiction of any court or person with respect to the granting of faculties shall cease to extend to the building or part of a building or land.
- (2) Where any consecrated building or part of a building or land is vested in the Churches Conservation Trust under section 71, the jurisdiction under subsection (1)(b) shall cease to extend thereto, and accordingly any works or alterations may be carried out in or in relation to the building or part of a building or land without the need for a faculty, but subject thereto and subject to any terms included in a lease under section 57(10) it shall continue to be subject to the legal effects of consecration.
- (3) If any building or part of a building or land to which this section applies is subsequently restored to its former use or is appropriated to another use for which consecration would be required this section shall cease to apply.

#### Commencement Information

**I20** S. 74 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

### 75 Power to impose and enforce covenants

- (1) Without prejudice to any restriction or requirement in a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 58 or 59 applies, the Commissioners or the diocesan board of finance may, in exercising their powers under this Part to sell, give, exchange or let or, as the case may be, to let or license, any building or land, include in the conveyance, lease or other instrument such covenants imposing conditions and requirements as to the use of the building or land concerned as the Commissioners or board think necessary or expedient to give effect to the provisions of the scheme or otherwise to secure the suitable use of the building or land; and, in a case where the land is sold, given or exchanged, any such covenants shall be enforceable as if the Commissioners or board were the owners of adjacent land



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and the covenants were expressed to be entered into for the benefit of that adjacent land, and in the case of covenants of a positive character as if they were negative.

- (2) Where any such covenant is subsequently varied or released by agreement, any sum of money received by a diocesan board of finance in consideration of the variation or release of a covenant imposed by the board shall be paid to the Commissioners and section 63(5) shall apply in relation to the sum so paid, and in relation to any sum of money received by the Commissioners in consideration of the variation or release of a covenant imposed by them, as it applies in relation to the proceeds of any sale or exchange under section 63(2), (3) or (4).
- (3) Section 84 (except subsection (2)) of the Law of Property Act 1925 (c. 20) (which enables the Upper Tribunal to discharge or modify restrictions affecting land) shall not apply in relation to conditions and requirements imposed under subsection (1).

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**Commencement Information**

**I21** S. 75 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

## **76 Disposal of font, communion table and plate, and other contents**

- (1) Where a pastoral church buildings scheme or pastoral (church buildings disposal) scheme makes provision for a church or part of a church to be demolished or appropriated to any use specified or described in the scheme the bishop shall, unless the scheme makes other provision, give directions as to how the font, communion table and plate used for the purpose of Holy Communion shall be dealt with but, if the church or part is so demolished or appropriated before any such directions are given or fully implemented, the diocesan board of finance shall, subject to any provision of the scheme, be responsible for the care, maintenance and safeguarding of any such items.
- (2) In a case to which subsection (1) applies, the scheme may also make provision with respect to the disposal of any other contents of the church, not being tombstones, monuments or memorials commemorating deceased persons buried in the church or in any land belonging or annexed to the church.
- (3) Where any items are disposed of in accordance with subsection (1) or (2) the bishop shall, subject to any provision of the scheme, give directions as to how any proceeds of their sale are to be applied.
- (4) Where a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies provides for the care and maintenance of a church or part of a church by the Churches Conservation Trust or where a pastoral (church buildings disposal) scheme provides for a church or part of a church to remain vested in the diocesan board of finance, the scheme may also provide for the vesting in and the care and maintenance by the Trust or the board, as the case may be, of any of the contents of the church or provide for the disposal of any of the contents other than any tombstones, monuments or memorials as are referred to in subsection (2).
- (5) No faculty shall be required for anything done in pursuance of this section.

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**Commencement Information**

**I22** S. 76 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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## 77 Trusts for the repair etc. of buildings closed for regular public worship and contents

- (1) If and so long as a building closed for regular public worship or part of it—
- (a) is vested in the diocesan board of finance pending the making or in pursuance of a pastoral (church buildings disposal) scheme;
  - (b) is vested in the Churches Conservation Trust in pursuance of a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies; or
  - (c) is vested in the Commissioners or the board for use or uses specified or described in a pastoral church buildings scheme or pastoral (church buildings disposal) scheme;

any property of a charity the purposes of which include the repair and maintenance of the building or the provision or maintenance of ornaments or other contents of the building shall continue to be applicable for that purpose:

Provided that—

- (i) in the case mentioned in paragraph (c), it shall only be so applicable if the scheme so provides; and
- (ii) if the building closed for regular public worship consists of part of a church or only part of the building is vested, it shall only be so applicable if and to the extent that the scheme so provides.

- (2) If and so long as any land annexed or belonging to a building closed for regular public worship is vested in the diocesan board of finance in pursuance of a pastoral (church buildings disposal) scheme or is vested in the Churches Conservation Trust in pursuance of a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies, then, if that land comprises a churchyard, any property of a charity the purposes of which include the maintenance of the churchyard shall continue to be applicable for that purpose:

Provided that if part only of the churchyard is so vested, the property shall only be so applicable if and to the extent that the scheme so provides.

- (3) Nothing in subsections (1) and (2) shall affect the powers to make schemes in respect of any such charity under [<sup>F14</sup>the Charities Act 2011 ], and paragraph 9(6) of Schedule 3 to this Measure shall apply to charities affected by a pastoral (church buildings disposal) scheme as it applies to charities affected by a pastoral scheme or order.
- (4) Where the purposes of a charity include the giving of sermons or lectures in any church and, by reason of a declaration of closure for regular public worship relating to the church or a part thereof, the sermons or lectures cannot be given in that church, they shall be given in the parish church of the parish in which the church is situated, or in such other church as the bishop may direct in an instrument under seal with the approval of the Charity Commission.

### Textual Amendments

**F14** Words in s. 77(3) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#) , s. 355 , [Sch. 7 para. 147](#) (with [s. 20\(2\)](#) , [Sch. 8](#) )

### Commencement Information

**I23** S. 77 in force at 1.7.2012 by [S.I. 2012/1](#) , [art. 2](#)

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## 78 Disposal of human remains

- (1) Where any human remains are believed to be buried in or beneath a building closed for regular public worship or in any land to which a pastoral (church buildings disposal) scheme applies, the body or person in whom the property is vested or to whom it is leased or licensed shall not, subject to this section, demolish, sell, lease or otherwise dispose of it or any part of it, or use it or any part of it, or carry out any development of it or any part of it, unless—
  - (a) as respects the human remains, either the Secretary of State has made an order under subsection (3) in relation to such demolition, use or development or the remains have been removed and reinterred or cremated in accordance with the provisions of Schedule 6; and
  - (b) any tombstones, monuments or memorials commemorating the deceased persons have been disposed of in accordance with those provisions,and (in either case) the other requirements of that Schedule have been complied with.
- (2) The requirements of subsection (1) and of Schedule 6 shall not apply—
  - (a) to a building closed for regular public worship the whole of which is to be used, without any structural alteration, as a place of religious worship for a university, college, school or other institution, or as a private chapel or monument, or for religious worship by a Church other than the Church of England, so long as the whole of it continues to be so used without any structural alteration involving the disturbance of human remains or the removal of any tombstones, monuments or memorials commemorating deceased persons;
  - (b) to any land which remains annexed or belonging to a building closed for regular public worship used as mentioned in paragraph (a);
  - (c) to any land which is to be used as part of a churchyard or burial ground and is vested under section 71(6) in the person in whom the churchyard or burial ground is vested;
  - (d) to any land which is to be used as part of a burial ground and has been conveyed to a burial authority constituted by or under an enactment.
- (3) Where it appears to the Secretary of State that the demolition of a building closed for regular public worship or part thereof, or the intended use or development of any property to which a pastoral (church buildings disposal) scheme applies or any part of such property, will not involve the disturbance of human remains, he or she may, after consultation with the bishop and the Commonwealth War Graves Commission, by order provide for dispensing with the requirements (so far as they concern human remains) of subsection (1) and of Schedule 6 in relation to the demolition of the building or part thereof, or such use or development of the property or part, as may be prescribed by or under the order, subject to such conditions, restrictions, and requirements as may be so prescribed, and in relation to any sale, lease or other disposal of the property for the purpose of such use or development.
- (4) Any order made under subsection (3) may be amended or revoked by a subsequent order made in like manner and subject to the like conditions, and, if at any time the requirements of subsection (1) and of Schedule 6 are complied with in respect of the property, the order shall cease to have effect.
- (5) Where an order is made under this section in respect of any property, a copy of it certified by or on behalf of the Secretary of State to be a true copy, shall be deposited

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with the registering authority (within the meaning of the Local Land Charges Act 1975 (c. 76)), and the order shall be a local land charge.

- (6) Where, by virtue of any such order, human remains are not removed and reinterred or cremated, the requirements of subsection (1) and of Schedule 6, so far as they relate to the disposal of tombstones, monuments and memorials, shall nonetheless apply.
- (7) Where there is situated in any building or part of a building closed for regular public worship or any land to which a pastoral (church buildings disposal) scheme applies any monument or memorial commemorating a deceased person whose remains are not buried in the building or part of it or land, the body or person in whom the building or part or land is vested or to whom it is leased or licensed shall not demolish, sell, lease or otherwise dispose of it or use it for any use or carry out any development of it, unless the monument or memorial has been disposed of in such manner as the bishop after consultation with the diocesan advisory committee for the care of churches has directed, or the bishop has after such consultation dispensed with this requirement.
- (8) No faculty shall be required for anything done in pursuance of this section or Schedule 6.
- (9) In this section any reference to a pastoral (church buildings disposal) scheme shall include a reference to the provisions of a pastoral scheme or a pastoral church buildings scheme providing for the matters referred to in section 44, 58 or 59.

**Modifications etc. (not altering text)**

**C1** S. 78 power to apply (with modifications) conferred (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), **ss. 92(4), 99(2)** (with s. 93, Sch. 4 Pt. 1); S.I. 2018/720, art. 2

**Commencement Information**

**I24** S. 78 in force at 1.7.2012 by [S.I. 2012/1](#), art. 2

*Preservation of churches closed for regular public worship by the Secretary of State*

## **79 Transfer of churches closed for regular public worship**

- (1) Notwithstanding anything in this Part—
  - (a) where a building closed for regular public worship or any part of such a building is vested in the diocesan board of finance, whether in pursuance of a pastoral church buildings scheme or a pastoral (church buildings disposal) scheme or pending the making of a pastoral (church buildings disposal) scheme, the board may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with the Secretary of State for the acquisition and preservation by the Secretary of State, whether in pursuance of existing statutory provisions or further provisions enacted after the passing of this Measure, of the building or part with or without other land so vested in the board;
  - (b) where a building closed for regular public worship or any part of such a building is vested in the Churches Conservation Trust in pursuance of a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies the Trust may enter into and carry out such

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an agreement for the acquisition and preservation by the Secretary of State of the building or part with or without other land so vested;

- (c) where a building closed for regular public worship or any part of such a building is situated in England and is vested in the diocesan board of finance, whether in pursuance of a pastoral church buildings scheme or a pastoral (church buildings disposal) scheme or pending the making of a pastoral (church buildings disposal) scheme, the board may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with English Heritage for the acquisition and preservation by English Heritage of the building or part with or without other land so situated and so vested in the board;
- (d) where a building closed for regular public worship or any part of such a building is situated in England and is vested in the Churches Conservation Trust in pursuance of a pastoral (church buildings disposal) scheme or a pastoral church buildings scheme to which section 59 applies, the Trust may enter into and carry out an agreement with English Heritage for the acquisition and preservation by English Heritage of the building or part with or without any other land so situated and so vested;

and on any such acquisition this Part, except so far as it is applied by subsections (3) and (4), and any pastoral (church buildings disposal) scheme made with respect to the building, or any provisions of a pastoral church buildings scheme so made by virtue of section 58 or 59 shall cease to apply to the property acquired.

- (2) English Heritage shall not enter into an agreement under subsection (1)(c) or (d) without the consent of the Secretary of State.
- (3) Where a building closed for regular public worship or part of such a building is acquired under subsection (1)—
  - (a) any rights of way or other easements conferred under section 72(1) and any rights of way enjoyed under section 72(2) shall vest in the Secretary of State or (as the case may be) English Heritage or be enjoyed by him or her or it for the performance of his or her or its functions in relation to the property or for giving reasonable access to the public;
  - (b) sections 71(9), 74(2), 76(1) and 76(2) shall apply as they apply to buildings or parts of buildings and land vested in the Churches Conservation Trust;
  - (c) section 78(1) shall not apply to a disposal to the Secretary of State or (as the case may be) English Heritage.
- (4) A pastoral church buildings scheme may make provision under section 70, with the consent of the Secretary of State or (as the case may be) English Heritage for restoring to use as a church or part of a church any building closed for regular public worship or part of such a building acquired by the Secretary of State or English Heritage under this section, and for any of the other matters specified in section 70 and that section shall accordingly apply to any such building or part and to any land acquired by the Secretary of State or English Heritage with it in like manner as it applies to a building closed for regular public worship vested in the Churches Conservation Trust and land so vested with it.
- (5) Before giving his or her consent under subsection (4) in relation to a building or part situated in England, the Secretary of State shall consult English Heritage.
- (6) Where a building closed for regular public worship or any part of such a building is acquired by the Secretary of State or English Heritage under this section, or an

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agreement for such an acquisition has been made, and any land previously annexed or belonging to the building is vested in the incumbent of the benefice in the area in which the building is situated, the incumbent may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with the Secretary of State or English Heritage (as the case may be) for the acquisition of the land by the Secretary of State or English Heritage (as the case may be) and for its maintenance with the building or part of the building and subsection (3) shall apply in relation to any land so acquired as it applies in relation to a building closed for regular public worship or part of such a building acquired under subsection (1).

- (7) English Heritage shall not enter into an agreement under subsection (6) unless—
- (a) the land is situated in England, and
  - (b) the Secretary of State has consented.
- (8) An agreement under this section may provide for the acquisition and preservation by the Secretary of State or (as the case may be) English Heritage of any of the contents of the building closed for regular public worship or a part of such a building, and on such an acquisition section 76(1) shall apply to the contents as it applies to the contents of a building or part vested in the Churches Conservation Trust, but otherwise this Part and any pastoral (church buildings disposal) scheme or pastoral church buildings scheme relating to the contents shall cease to apply to the contents so acquired.
- (9) Where a building closed for regular public worship or part of such a building situated in England has been acquired for its preservation by the Secretary of State under subsection (1) either with or without any other land so situated, English Heritage may by agreement with the Secretary of State undertake on his or her behalf the management and preservation of the building or part together with the other land (if any).
- (10) Where the Secretary of State has under subsection (6) acquired land situated in England for its maintenance with a building or part of such a building, English Heritage may undertake, in any agreement made under subsection (9) in relation to the building or part, the maintenance of the land on behalf of the Secretary of State.
- (11) Where the Secretary of State has under subsection (8) acquired for their preservation the contents of a building closed for regular public worship or part of such a building, English Heritage may undertake, in any agreement made under subsection (9) in relation to the building or part, the preservation of the contents on behalf of the Secretary of State.

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**Commencement Information**

**I25** S. 79 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

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**Changes and effects yet to be applied to the whole Measure associated Parts and Chapters:**

Whole provisions yet to be inserted into this Measure (including any effects on those provisions):

- s. 44(7)(8) inserted by [2020 No. 1 s. 6\(9\)](#)
- s. 63(15)(16) inserted by [2020 No. 1 s. 6\(10\)](#)
- s. 64(5)(6) inserted by [2020 No. 1 s. 6\(11\)](#)