



# Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

## PART 3

### CARE OF CHURCHES ETC.

#### *General duty*

#### **35 Duty to have regard to church's purpose**

A person carrying out functions of care and conservation under this Measure, or under any other enactment or any rule of law relating to churches, must have due regard to the role of a church as a local centre of worship and mission.

#### **Commencement Information**

II [S. 35](#) in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

#### *Diocesan Advisory Committees*

#### **36 Advisory committees: continuation**

- (1) In every diocese there is to continue to be an advisory committee for the care of churches, known as the Diocesan Advisory Committee.
- (2) Each advisory committee must continue to have a written constitution provided by the diocesan synod which contains—
  - (a) the provisions set out in Schedule 2 or provisions to like effect, and

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*Changes to legislation: There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 3. (See end of Document for details)*

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- (b) such other provisions as were included under section 2(3) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (diocesan synod's power to make provision on procedure and sub-committees).
- (3) The diocesan synod may by resolution amend the advisory committee's written constitution to include further provision consistent with the provisions referred to in subsection (2).

**Commencement Information**

**I2** S. 36 in force at 1.9.2018 by S.I. 2018/720, art. 2

**37 Advisory committees: functions**

- (1) The advisory committee must act as an advisory body on matters affecting places of worship in the diocese and, in particular, must give advice when requested by a relevant person on matters relating to—
  - (a) the grant of faculties,
  - (b) the architecture, archaeology, art or history of a place of worship,
  - (c) the use, care, planning, design or closure of a place of worship,
  - (d) the use or care of the contents of a place of worship, or
  - (e) the use or care of a churchyard or burial ground.
- (2) Each of the following is a “relevant person” for the purposes of subsection (1)—
  - (a) the bishop of the diocese,
  - (b) the chancellor of the diocese,
  - (c) the archdeacon of each archdeaconry in the diocese,
  - (d) the PCC for each parish in the diocese,
  - (e) a person intending to apply for a faculty in the diocese,
  - (f) the mission and pastoral committee of the diocese,
  - (g) a person engaged in the planning, design or building of a new place of worship in the diocese, not being a place within the jurisdiction of the consistory court, and
  - (h) such other persons as the committee considers appropriate.
- (3) The committee must review and assess the degree of risk to materials, or of loss to archaeological or historic remains or records, arising from proposals relating to the conservation, repair or alteration of a place of worship, churchyard or burial ground or the contents of such a place.
- (4) The committee must develop and maintain a repository of—
  - (a) records relating to the conservation, repair and alteration of places of worship, churchyards and burial grounds, and
  - (b) other material (including inspection reports, inventories, technical information and photographs) relating to the work of the committee.
- (5) The committee must issue guidance for the preparation and storage of the records referred to in subsection (4).

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- (6) The committee must make recommendations as to the circumstances in which the preparation of a record of the kind referred to in subsection (4) should be made a condition of a faculty.
- (7) The committee must—
- (a) take action to encourage the care and appreciation of places of worship, churchyards and burial grounds and the contents of such places, and
  - (b) for that purpose, publicise methods of conservation, repair, construction, adaptation and redevelopment.
- (8) The advisory committee must carry out such other functions—
- (a) as may be imposed on it by an enactment or by a Canon;
  - (b) as may be imposed on it by a resolution of the diocesan synod;
  - (c) as it may be requested to carry out by the bishop or chancellor.
- (9) In carrying out its functions, the committee or any sub-committee it has must have due regard to the rites and ceremonies of the Church of England.
- [<sup>F1</sup>(9A) The committee may delegate the exercise of any of its functions to an officer of the committee.]
- (10) Any expenses incurred for enabling the committee to carry out its functions properly and effectively, and which were approved by the diocesan board of finance before being incurred, are to be paid by the board.
- (11) As soon as practicable after the end of each year, the committee must prepare a report of its work and proceedings during that year and must cause the report to be laid before the diocesan synod; and the secretary of the committee must send a copy of the report to the Church Buildings Council.

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**Textual Amendments**

**F1** S. 37(9A) inserted (1.3.2019) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), ss. 12(1), 17(3); S.I. 2019/67, art. 2(1)(k)

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**Commencement Information**

**I3** S. 37 in force at 1.9.2018 by S.I. 2018/720, art. 2

*The list of places of worship*

**38 The list**

- (1) The Church Buildings Council must continue to maintain the list (“the list”) which it was maintaining under section 1 of the Care of Places of Worship Measure 1999 immediately before the commencement of this section, being a list of eligible buildings which are, as a result of their inclusion in the list, subject to the faculty jurisdiction.
- (2) A building is eligible for inclusion in the list if (subject to subsection (3))—
- (a) it is subject to any peculiar jurisdiction and is used for worship according to the rites and ceremonies of the Church of England;
  - (b) it is a chapel forming part of an episcopal house of residence;

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- (c) it is a chapel or other place of worship owned or leased by or held in trust for a religious community;
  - (d) it does not come within paragraph (a), (b) or (c) but is part of a university, college, school, hospital, Inn of Court, almshouse or other public or charitable institution and is primarily used—
    - (i) for worship according to the rites and ceremonies of the Church of England, or
    - (ii) for joint worship by members of the Church of England and one or more other Churches;
  - (e) it is subject to a sharing agreement made on behalf of the Church of England in pursuance of the Sharing of Church Buildings Act 1969 and is used for worship.
- (3) But a building is not eligible for inclusion in the list if—
- (a) the Care of Cathedrals Measure 2011 applies to it,
  - (b) it is subject to the faculty jurisdiction of a consistory court, or
  - (c) it comes within Article 7(1)(a) to (d) of the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010 (ecclesiastical exemption: buildings used by other Churches).
- (4) In this section and sections 39 to 44—
- “building” does not include plant or machinery in the building;
  - “episcopal house of residence” has the same meaning as in section 3 of the Episcopal Endowments and Stipends Measure 1943.

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**Commencement Information**

**I4** S. 38 in force at 1.9.2018 by S.I. 2018/720, art. 2

### **39 Application for inclusion in the list**

- (1) On an application for the inclusion of a building in the list, an application may also be made for the inclusion in the list of an adjoining building which is used wholly or mainly as a vestry or sacristy.
- (2) On an application for the inclusion in the list of a building within section 38(2)(a) (peculiar) or (2)(e) (shared church) which is detached from any other building, an application may also be made for the inclusion in the list of—
  - (a) the curtilage of the building,
  - (b) a monument within the curtilage, or
  - (c) an object or structure forming part of the land within the curtilage which is used wholly or mainly for purposes ancillary to the purposes for which the building is used.
- (3) A reference in sections 42 to 44 to a building included in the list is to be read in light of subsection (2).
- (4) “Monument” includes a tomb, gravestone or other memorial and any kerb or setting forming part of it.

*Changes to legislation: There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 3. (See end of Document for details)*

#### Commencement Information

**I5** S. 39 in force at 1.9.2018 by S.I. 2018/720, art. 2

#### 40 Application: who may apply

- (1) In the case of a building within section 38(2)(a) (peculiar), (2)(c) (building for religious community) or (2)(d) (public or charitable institution), an application for inclusion in or removal from the list must be made—
  - (a) if the building is held on charitable trusts, by the persons having the general control and management of the administration of the charity, or
  - (b) otherwise, by the person having the general control and management of the building.
- (2) In the case of a building within section 38(2)(b) (episcopal house of residence), an application for inclusion in or removal from the list must be made by the bishop or archbishop concerned.
- (3) In the case of a building within section 38(2)(e) (shared church), an application for inclusion in or removal from the list must be made by the person having the general control and management of the building.
- (4) The person who is entitled to apply for the inclusion of a building in the list, or its removal from the list, is also entitled to apply to the Church Buildings Council for an alteration of the entry in the list relating to the building.

#### Commencement Information

**I6** S. 40 in force at 1.9.2018 by S.I. 2018/720, art. 2

#### 41 Application: requirements for consent etc.

- (1) An application within section 40(1)(b) (peculiar, building for religious community or public or charitable institution, where applicant has general control of building) relating to a building which is not subject to a tenancy may not be made without the consent of the owner.
- (2) An application within section 40(1)(b) relating to a building which is subject to a tenancy may not be made without the consent—
  - (a) if the applicant is the owner, of the tenant;
  - (b) if the applicant is the tenant, of the owner;
  - (c) otherwise, of the owner and the tenant.
- (3) Subsections (1) and (2) do not apply if the Church Buildings Council is satisfied that—
  - (a) the owner cannot be found after reasonable efforts to find the owner have been made, or
  - (b) it is impracticable to seek the owner's consent.
- (4) Subsection (2) does not apply if the Church Buildings Council is satisfied that—
  - (a) the tenant cannot be found after reasonable efforts to find the tenant have been made, or

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- (b) it is impracticable to seek the tenant's consent.
- (5) In the case of a building within section 38(2)(a) (peculiar) or (2)(d) (public or charitable institution) in relation to which there is a Visitor, an application for inclusion in or removal from the list may not be made without the consent of the Visitor.
- (6) In the case of a building within section 38(2)(b) (episcopal house of residence), an application for inclusion in or removal from the list may not be made without the consent of the Church Commissioners.
- (7) Nor may an application of the kind mentioned in subsection (6) be made—
- (a) in the case of Lambeth Palace or Old Palace Canterbury, during a vacancy in the see of Canterbury;
  - (b) in the case of Bishopthorpe Palace, during a vacancy in the see of York;
  - (c) in any other case, during a vacancy in the see of the bishop of the diocese in which the building is situated.
- (8) In the case of a building within section 38(2)(c) (building for religious community), an application for inclusion in or removal from the list may not be made without the consent of the superior of the religious community concerned; and the superior may consult the Visitor before deciding whether or not to consent.
- (9) In the case of a building within section 38(2)(e) (shared church), an application for inclusion in or removal from the list may not be made unless the requirements of the sharing agreement concerned, or of any arrangements made under it, relating to consultation or consent in the management of the building have been met.
- (10) In the case of a building which is part of a prison, an application for inclusion in or removal from the list may not be made without the consent of the Chaplain-General of Prisons.
- (11) An application for inclusion in or removal from the list must be made in the manner specified by rules.
- (12) “Owner”, in relation to a building, means the person who is for the time being the estate owner of the fee simple in the building.
- (13) “Tenant”, in relation to a building subject to a tenancy, means the person who is for the time being entitled to the tenancy.

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**Commencement Information**

**I7** S. 41 in force at 1.9.2018 by S.I. 2018/720, art. 2

## **42 Determination of application, removal from list**

- (1) On an application for the inclusion of a building in the list, or for the removal of a building from the list, the Church Buildings Council must grant the application unless it is satisfied that the application does not meet—
- (a) the requirements of sections 38 to 41, or
  - (b) the requirements of any rules which relate to the application.
- (2) The Church Buildings Council may remove a building from the list if it considers that—

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- (a) the building is no longer eligible for inclusion, or
  - (b) an order or direction of a court in connection with its faculty jurisdiction, or an undertaking given in connection with the application for inclusion, has not been complied with.
- (3) But the Council may not act under subsection (2) without having given the person who is entitled to make an application in respect of the building under section 40 an opportunity to show why the building should not be removed from the list.
- (4) The removal of a building from the list under this section does not affect sections 69 to 73 (orders in case of default etc.) in their application to the building or anything done under any of those sections before the removal.

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**Commencement Information**

**18** S. 42 in force at 1.9.2018 by S.I. 2018/720, art. 2

**43 Effect of inclusion in the list**

- (1) A building included in the list and any object or structure fixed to it (other than plant or machinery in the building) are subject to the faculty jurisdiction of the consistory court of the diocese in which the building is situated.
- (2) Accordingly, the provisions of this Measure (other than sections 56 to 58) and the provisions of any other Measure or of any rules or other instrument relating to the faculty jurisdiction apply to the building and any such object or structure.
- (3) If a chapel forming part of Lambeth Palace is included in the list—
  - (a) the Vicar-General's court of Canterbury is to exercise the faculty jurisdiction of the consistory court in relation to the chapel,
  - (b) the registrar of the province of Canterbury is to act as registrar of the Vicar-General's court for that purpose,
  - (c) the Church Buildings Council is to exercise the functions of the advisory committee in relation to the chapel, and
  - (d) in the application to the chapel of this Measure or of any other Measure or rules or other instrument relating to the faculty jurisdiction, a reference to a consistory court, to the registrar of a diocese or to an advisory committee is to be read in light of paragraphs (a) to (c).

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**Commencement Information**

**19** S. 43 in force at 1.9.2018 by S.I. 2018/720, art. 2

**44 The list: supplementary provision**

- (1) The list must, in the case of each building included in it, contain or have attached to it such details of the objects and structures fixed to the building as rules specify.
- (2) The list must be open by appointment to inspection by members of the public at the offices of the Church Buildings Council during normal office hours.

*Changes to legislation:* There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 3. (See end of Document for details)

- (3) A person is entitled to be supplied with a copy of an entry or document relating to a building included in the list on payment of such charge as the Council may from time to time determine in respect of the costs incurred by it.
- (4) The Council must, at least once every five years, send a copy of the list to—
  - (a) the Secretary of State,
  - (b) the Historic Buildings and Monuments Commission for England, and
  - (c) each national amenity society.
- (5) When acting under subsection (4), the Council must also send to each advisory committee in whose area a building included in the list is situated a copy of those parts of the list which relate to the building.
- (6) Where a building is included in or removed from the list, or the entry relating to a building included in the list is altered, the Council must in writing inform—
  - (a) the registrar of the diocese in which the building is situated,
  - (b) the advisory committee of that diocese, and
  - (c) each person mentioned in subsection (4).
- (7) On receiving a document under subsection (5) or (6), the advisory committee of a diocese must send to each local planning authority in whose area a building mentioned in the document is situated a copy of those parts of the document that relate to that building.
- (8) “Local planning authority”, in relation to an area, means the body exercising the functions of the local planning authority under section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that area.

**Commencement Information**  
**I10** S. 44 in force at 1.9.2018 by S.I. 2018/720, art. 2

*Inspection*

**45 Scheme for inspection of church or building in the list**

- (1) In the case of each diocese, the scheme established by the diocesan synod or the bishop under section 1 or 1B of the Inspection of Churches Measure 1955, providing for the inspection of every church or relevant building in the diocese at least once every five years and having effect immediately before the commencement of this section, continues to have effect.
- (2) The scheme contains—
  - (a) provision establishing a fund by means of contributions from parochial, diocesan or other sources;
  - (b) provision for the payment out of that fund or otherwise of the cost of inspecting churches or relevant buildings in the diocese;
  - (c) provision for the appointment of [<sup>F2</sup>persons] to inspect the churches or relevant buildings in the diocese and make a report on each one inspected;
  - <sup>F3</sup>(d) .....
  - <sup>F3</sup>(e) .....

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**Changes to legislation:** There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 3. (See end of Document for details)

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- (f) such other provisions as were included under section 1(2)(e) or 1B(1) of the Inspection of Churches Measure 1955 (power of diocesan synod or bishop to make provisions consistent with that Measure).
- [<sup>F4</sup>(2A) In relation to each church in the diocese, the provision specified in subsection (2)(c) must provide—
- (a) for the PCC of the parish in which the church is situated to appoint a person to inspect the church and to make a report on the inspection,
  - (b) for the PCC not to make the appointment unless it—
    - (i) has obtained and had regard to advice from the advisory committee on the appointment, and
    - (ii) is satisfied that the person to be appointed has the necessary qualifications and experience, and
  - (c) for a copy of the report on the inspection to be sent to—
    - (i) the archdeacon of the archdeaconry in which the church is situated,
    - (ii) the PCC,
    - (iii) the incumbent of the benefice to which the parish in which the church is situated belongs, and
    - (iv) the secretary of the advisory committee.
- (2B) In relation to each relevant building in the diocese, the provision specified in subsection (2)(c) must provide—
- (a) for the manager of the building to appoint a person to inspect the building and to make a report on the inspection,
  - (b) for the manager of the building not to make the appointment unless the manager—
    - (i) has obtained, and had regard to, advice from the advisory committee on the appointment, and
    - (ii) is satisfied that the person to be appointed has the necessary qualifications and experience, and
  - (c) for a copy of the report on the inspection to be sent to—
    - (i) the archdeacon of the archdeaconry in which the building is situated,
    - (ii) the secretary of the advisory committee, and
    - (iii) the Church Buildings Council.]
- (3) The diocesan synod may at any time establish a further scheme to replace the previous scheme (regardless of whether that previous scheme was established by the diocesan synod or by the bishop); and a further scheme—
- (a) must be for the purpose specified in subsection (1),
  - (b) must contain the provision specified in [<sup>F5</sup>subsection (2)(a) to (c)], and
  - (c) may contain such other provision not inconsistent with this section or sections 46 to 48 as the diocesan synod thinks fit.
- (4) A scheme established under subsection (3) and passed at a meeting of the diocesan synod—
- (a) must be signed by the chair of the meeting, and
  - (b) comes into operation on the date on which it is signed.
- [<sup>F6</sup>(4A) In exercising a function under the scheme referred to in this section, a PCC, the manager of a relevant building or an advisory committee must have regard to any guidance issued by the Church Buildings Council.]

*Changes to legislation: There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 3. (See end of Document for details)*

(5) “Relevant building” means a building included in the list other than a building within section 38(2)(b) (episcopal house of residence).

[<sup>F7</sup>(5A) A reference to the manager of a relevant building is—

- (a) if the building is held on charitable trusts, a reference to the persons who have the general control and management of the administration of the charity;
- (b) in any other case, a reference to the person who has the general control and management of the building.]

<sup>F8</sup>(6) .....

#### Textual Amendments

- F2** Word in s. 45(2)(c) substituted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(1)(a)**, 16(3); S.I. 2020/835, art. 2
- F3** S. 45(2)(d)(e) omitted (1.9.2020) by virtue of Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(1)(b)**, 16(3); S.I. 2020/835, art. 2
- F4** S. 45(2A)(2B) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(2)**, 16(3); S.I. 2020/835, art. 2
- F5** Words in s. 45(3)(b) substituted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(3)**, 16(3); S.I. 2020/835, art. 2
- F6** S. 45(4A) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(4)**, 16(3); S.I. 2020/835, art. 2
- F7** S. 45(5A) inserted (1.9.2020) by Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(5)**, 16(3); S.I. 2020/835, art. 2
- F8** S. 45(6) omitted (1.9.2020) by virtue of Church of England (Miscellaneous Provisions) Measure 2020 (No. 1), **ss. 7(6)**, 16(3); S.I. 2020/835, art. 2

#### Commencement Information

- I11** S. 45 in force at 1.9.2018 by S.I. 2018/720, art. 2

## 46 Inspection: contents etc.

(1) An inspection of a church under the scheme referred to in section 45 must include an inspection of—

- (a) every movable article in the church which the inspector is directed by the archdeacon, after consultation with the advisory committee of the diocese, to treat as being—
  - (i) of outstanding architectural, artistic, historical or archaeological value,
  - (ii) of significant monetary value, or
  - (iii) at special risk of being stolen or damaged;
- (b) every other article in the church which the inspector considers to be of the description in sub-paragraph (i), (ii) or (iii) of paragraph (a);
- (c) every ruin in the churchyard which is designated by the Council for British Archaeology and the Historic Buildings and Monuments Commission for England acting jointly as being of outstanding architectural, artistic, historical or archaeological value;
- (d) every tree in the churchyard belonging to the church in respect of which a tree preservation order under the Town and Country Planning Act 1990 is in force.

*Changes to legislation: There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 3. (See end of Document for details)*

- (2) Any expenses properly incurred by a PCC, with the prior approval of the diocesan board of finance, for the purpose of implementing a recommendation contained in a report made in respect of a ruin under subsection (1)(c) must be paid by the board.
- (3) A reference in this section or section 45 or 47 to the inspection of a church is to be read in light of subsection (1).
- (4) “Ruin” means a site which comprises the remains of a building which are above the surface of the land; and for this purpose “site” does not include—
  - (a) a monument (within the meaning of section 66), or
  - (b) a site which is used for the purposes of public worship according to the rites and ceremonies of the Church of England.

**Commencement Information**

**I12** S. 46 in force at 1.9.2018 by S.I. 2018/720, art. 2

**47 Archdeacon's power to require inspection of church**

- (1) This section applies where an archdeacon finds on a survey of the churches of his or her jurisdiction, or at any other time, that a church in the archdeaconry or a relevant article in a church in the archdeaconry has not been inspected to his or her satisfaction<sup>F9</sup> ... for at least five years.
- (2) The archdeacon may serve on the PCC of the parish in which the church is situated a written notice requiring the PCC to cause the church or relevant article to be inspected in accordance with the scheme referred to in section 45.
- (3) A relevant article, in relation to a church, is a movable article in the church which the archdeacon, after consultation with the advisory committee, considers to be—
  - (a) of outstanding architectural, artistic, historical or archaeological value,
  - (b) of significant monetary value, or
  - (c) at special risk of being stolen or damaged.
- (4) At any time after the expiry of three months beginning with the date of service of a notice under subsection (2), if the church or relevant article has not in the meantime been inspected as mentioned in subsection (1), the archdeacon may, with the consent of the bishop of the diocese concerned, make arrangements for the inspection and report required by the scheme referred to in section 45 to be done.
- (5) Where a church or relevant article is inspected under arrangements made under subsection (4), the cost of the inspection as certified by the archdeacon must be paid out of the fund established by the scheme referred to in section 45 (see subsection (2) (a) of that section).
- (6) A notice under subsection (2) may be served by sending it by post—
  - (a) in a registered letter addressed to the secretary of the PCC by his or her name at his or her usual or last-known address, or
  - (b) if the secretary's name or residence is not known, in a registered letter addressed to the secretary by that title at the usual or last-known address of the incumbent of the parish.

<sup>F10</sup>(7) .....

*Changes to legislation: There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 3. (See end of Document for details)*

#### Textual Amendments

- F9** Words in s. 47(1) omitted (1.9.2020) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\), ss. 7\(7\)](#), 16(3); S.I. 2020/835, art. 2
- F10** S. 47(7) omitted (1.9.2020) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\), ss. 7\(8\)](#), 16(3); S.I. 2020/835, art. 2

#### Commencement Information

- I13** S. 47 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

### 48 Power to require inspection of other place of worship

- (1) Where an archdeacon finds that a relevant building in the archdeaconry (other than one which is part of a prison) has not been inspected to his or her satisfaction <sup>F11</sup>... for at least five years, the archdeacon must notify the Church Buildings Council.
- (2) Where the Chaplain-General of Prisons finds that a relevant building which is part of a prison has not been inspected to his or her satisfaction <sup>F12</sup>... for at least five years, the Chaplain-General must notify the Church Buildings Council.
- (3) At any time after the expiry of three months beginning with the date of notification under this section, if the building has not in the meantime been inspected as mentioned in subsection (1) or (2), the archdeacon or Chaplain-General (as the case may be) may, with the consent of the bishop of the diocese concerned, make arrangements for the inspection and report required by the scheme referred to in section 45 to be done.
- (4) “Relevant building” [<sup>F13</sup>has] the meaning given in section 45.

#### Textual Amendments

- F11** Words in s. 48(1) omitted (1.9.2020) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\), ss. 7\(9\)](#), 16(3); S.I. 2020/835, art. 2
- F12** Words in s. 48(2) omitted (1.9.2020) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\), ss. 7\(9\)](#), 16(3); S.I. 2020/835, art. 2
- F13** Word in s. 48(4) substituted (1.9.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\), ss. 7\(10\)](#), 16(3); S.I. 2020/835, art. 2

#### Commencement Information

- I14** S. 48 in force at 1.9.2018 by [S.I. 2018/720](#), [art. 2](#)

### *Role of churchwardens, PCCs and archdeacons*

### 49 Role of churchwardens in recording information

- (1) The churchwardens in each parish must continue to maintain the terrier and inventory which they were maintaining under section 4(1)(a) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (“the 1991 Measure”) immediately before the commencement of this section, being respectively—
  - (a) a full terrier of all land appertaining to the church, and
  - (b) a full inventory of all articles appertaining to the church.

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- (2) The churchwardens in each parish must continue to maintain the log-book which they were maintaining under section 4(1)(b) of the 1991 Measure immediately before the commencement of this section, being a log-book which has inserted in it a full note of—
  - (a) all alterations, additions and repairs to, and other events affecting, the church and the land and articles appertaining to it, and
  - (b) the location of any other documents not kept with the log-book and which relate to those alterations, additions, repairs or events.
- (3) In carrying out the duty under subsection (1) or (2), the churchwardens must act in consultation with the minister.
- (4) The form of the terrier, inventory and log-book must accord with such recommendations as the Church Buildings Council may make.
- (5) The churchwardens must send a copy of the inventory to such person as the bishop of the diocese may from time to time designate.
- (6) The churchwardens must notify the person designated under subsection (5) of any alterations to the inventory at such intervals as the bishop may direct.
- (7) In the case of a parish which has more than one church, this section applies in relation to each church.

**Commencement Information**

**I15** S. 49 in force at 1.9.2018 by S.I. 2018/720, art. 2

**50 Role of churchwardens in inspecting fabric etc. of church**

- (1) The churchwardens in each parish must, at least once every calendar year, inspect or cause an inspection to be made of the fabric of the church and all articles appertaining to the church.
- (2) The churchwardens in each parish must, in every calendar year, deliver to the PCC and, on behalf of the PCC, to the annual parochial church meeting a report (“the annual fabric report”) on the fabric of the church and all articles appertaining to it, having due regard to the inspection (or inspections) under subsection (1).
- (3) The annual fabric report must include an account of all actions taken or proposed during the previous calendar year—
  - (a) for the protection and maintenance of the fabric of the church and the articles appertaining to it, and
  - (b) in particular, for the implementation of any recommendation contained in a report under the scheme referred to in section 45 (scheme for inspection of church).
- (4) In carrying out the duty under subsection (1) or (2), the churchwardens must consult the minister.
- (5) The annual fabric report must be delivered—
  - (a) to the PCC at its last meeting before the annual parochial church meeting, and

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- (b) to that annual parochial church meeting, with such amendments to the report as the PCC may make.
- (6) The churchwardens must, as soon as practicable after the beginning of each calendar year, produce to the PCC—
  - (a) the terrier, the inventory and the log-book relating to events occurring in the previous calendar year, and
  - (b) such other records as the churchwardens consider likely to assist the PCC in carrying out its functions in relation to the fabric of the church and articles appertaining to it.
- (7) The terrier, inventory and log-book produced to the PCC under subsection (6)(a) must be accompanied by a statement signed by the churchwardens to the effect that the contents of each are accurate.
- (8) In the case of a parish which has more than one church, this section applies in relation to each church.

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**Commencement Information**

**I16** S. 50 in force at 1.9.2018 by S.I. 2018/720, art. 2

## **51 Role of PCC in maintaining etc. trees in churchyards**

- (1) The powers, duties and liabilities of a PCC in relation to the care and maintenance of a churchyard which it is liable to maintain apply to trees in the churchyard and any proposed to be planted there.
- (2) Where a tree in a churchyard which a PCC is liable to maintain is felled, lopped or topped—
  - (a) the PCC may sell or otherwise dispose of the timber, and
  - (b) the net proceeds of the sale must be paid to the PCC and applied towards the maintenance of the church or churchyard which it is liable to maintain.
- (3) The Church Buildings Council must give written guidance to all PCCs as to the planting, felling, lopping and topping of trees in churchyards.

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**Commencement Information**

**I17** S. 51 in force at 1.9.2018 by S.I. 2018/720, art. 2

## **52 Role of archdeacon in convening meeting in a case of default**

- (1) Where it appears to an archdeacon that something which ought to have been done in connection with the care of a church in the archdeaconry or an article appertaining to a church there has not been done, the archdeacon may convene an extraordinary meeting of the PCC, or an extraordinary parochial church meeting, in order to discuss the matter.
- (2) The archdeacon must either take the chair or appoint a person to chair the meeting.

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- (3) The chair of the meeting, unless otherwise entitled to attend the meeting, is not entitled to vote on any resolution before the meeting.

**Commencement Information**

**I18** S. 52 in force at 1.9.2018 by S.I. 2018/720, art. 2

**53 Role of archdeacon in ordering deposit of articles in place of safety**

- (1) This section applies if it appears to an archdeacon that an article appertaining to a church in the archdeaconry which the archdeacon considers to be of architectural, artistic, historical or archaeological value—
- (a) is exposed to danger of loss or damage, and
  - (b) ought to be removed to a place of safety.
- (2) The archdeacon may order that the article is to be removed and deposited in the place of safety specified in the order.
- (3) Before making an order under this section, the archdeacon must, unless of the opinion that the article should be removed to a place of safety immediately—
- (a) give a notice to the churchwardens, to any other person having custody of the article, to the PCC and to the advisory committee of the facts as they appear to the archdeacon, and
  - (b) inform the persons referred to in paragraph (a) that he or she will consider any written representations made by any of them to him or her before the date specified in the notice.
- (4) The date specified for the purposes of subsection (3)(b) must be at least 28 days after the day on which the notice is given.
- (5) Where notice is given under subsection (3)(a) (and not withdrawn), the archdeacon may not make an order under this section in respect of the article before the date specified for the purposes of subsection (3)(b) (or without having considered written representations made to him or her before that date).
- (6) Where the archdeacon makes an order under this section without having given the advisory committee an opportunity to make representations to him or her in connection with the making of the order, the archdeacon must, as soon as practicable after the removal of the article concerned to a place of safety, notify the committee of the removal.
- (7) An order made under this section by the archdeacon—
- (a) must be in such form as rules may specify;
  - (b) must be directed to, and served on, the churchwardens and any other person having custody of the article.
- (8) If a person on whom an order made under this section by the archdeacon is served refuses or fails to comply with the order, the archdeacon may apply to the consistory court of the diocese in which the article is for an order that the person must deliver the article to the place of safety specified in the order.
- (9) The court may make an order under subsection (8) if it is satisfied that the order made by the archdeacon was made in accordance with this section.

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- (10) Where the archdeacon makes an order under this section, he or she must, within 28 days after the removal of the article to a place of safety, apply to the consistory court for a faculty authorising the retention of the article in the place of safety.
- (11) “Article” does not include a record or register to which section 10(1) of the Parochial Registers and Records Measure 1978 applies.

**Commencement Information**

**I19** S. 53 in force at 1.9.2018 by S.I. 2018/720, art. 2

*Parochial libraries*

**54 Preservation etc. of parochial libraries**

- (1) A parochial library is to be preserved for the uses for which it was founded; and the orders and rules of the founder of the library are to be kept and observed.
- (2) If a book belonging to a parochial library is removed and detained, the minister of the parish concerned, or any other person, may bring a claim for conversion in the name of the bishop of the diocese.
- (3) On hearing a claim under subsection (2), the court may award damages of up to three times the amount that would be payable if the book belonged to the claimant and may award costs on an indemnity basis; and damages awarded under this subsection must be applied for the use and benefit of the library.
- (4) The bishop of the diocese in which a parochial library is situated (or his or her commissary or official) or the archdeacon of the archdeaconry in which a parochial library is situated (or, where he or she so directs, his or her deputy)—
- (a) may, on a visitation, enquire into the state and condition of the library and may make such changes or take such remedial action as he or she thinks appropriate for dealing with grievances and defects relating to the library;
  - (b) has free access to the library at such time or times as he or she may appoint.
- (5) Subsection (4) does not apply to an archdeacon (or to his or her deputy) if the archdeacon is the incumbent of the place where the library is situated.
- (6) The bishop of the diocese in which a parochial library is situated may appoint a person to view the state and condition of the library.
- (7) For the purpose of better preserving the books belonging to a parochial library, and of showing the benefactions given to it, a book is to be kept in the library for entering and registering the books and benefactions; and the minister must enter, or cause to be entered, such benefactions and an account of all such books as are from time to time given and by whom they are given.
- (8) For the purpose of better governing a parochial library and preserving it, the bishop of the diocese and the donor of a benefaction to the library acting jointly or (after the death of the benefactor) the bishop alone may make such rules and orders relating to the library, in addition to and consistent with those the benefactor thinks necessary and appropriate.

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**Changes to legislation:** *There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 3. (See end of Document for details)*

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- (9) Any rules and orders made under subsection (8) are to be entered in the book kept under subsection (7) or some other book prepared for the purpose and kept in the library.
- (10) Subject to section 67 (which permits the granting of a faculty for the sale of a book in a parochial library), no book which was given to a parochial library before 1 January 1708 may be transferred; and any book given by a benefactor to the library on or after that date may be transferred only if the bishop consents and there is a duplicate of the book.
- (11) The reference in each of subsections (4) and (5) to an archdeacon's deputy is—
- (a) if the archdeacon still has an official principal, a reference to that person, or
  - (b) in any other case, and by virtue of section 34(2), a reference to the chancellor of the diocese in which the parochial library is situated.

**Commencement Information**

**I20** S. 54 in force at 1.9.2018 by S.I. 2018/720, art. 2

*Interpretation*

**55 Interpretation of Part 3**

- (1) In this Part, unless otherwise indicated—
- “advisory committee” means—
- (a) in relation to a diocese, the Diocesan Advisory Committee of that diocese;
  - (b) in relation to an archdeaconry, the Diocesan Advisory Committee of the diocese in which the archdeaconry is situated;
- “article” includes anything affixed to land or a building, and a reference to an article includes a reference to part of an article;
- “building” includes a structure or erection, and a reference to a building includes a reference to part of a building;
- “diocesan board of finance” has the same meaning [<sup>F14</sup>as “DBF” in the Church Property Measure 2018 (see section 49 of that Measure)];
- “land” includes buildings but, subject to that, the definition of the word given in Schedule 1 to the Interpretation Act 1978 does not apply;
- “the list” means the list maintained under section 38;
- “minister”, in the case of a parish in which a special cure of souls has been assigned to a vicar in a team ministry by a scheme under the Mission and Pastoral Measure 2011 or by licence from the bishop, means that vicar;
- “minister”, in the case of a parish not of that description, means—
- (a) the incumbent of the benefice to which the parish belongs, or
  - (b) a curate licensed to the charge of the parish or a minister acting as priest-in-charge of the parish, where rights of presentation are suspended;
- “national amenity society” means—
- (a) the Ancient Monuments Society,
  - (b) the Council for British Archaeology,

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- (c) the Georgian Group,
  - (d) the Society for the Protection of Ancient Buildings,
  - (e) the Victorian Society,
  - (f) the Twentieth Century Society, or
  - (g) such other group of persons as the Dean of the Arches and Auditor may from time to time designate as a national amenity society;
- “parish” means—
- (a) an ecclesiastical parish, or
  - (b) a district which is constituted as a conventional district for the cure of souls;
- “place of worship” includes the curtilage of a place of worship.
- (2) In the definition of “national amenity society” in subsection (1), the reference in each of paragraphs (a) to (f) to a named group of persons is a reference to the group of persons commonly known by that name, regardless of the form in which the group is for the time being constituted.
- (3) In this Part, “church” means—
- (a) a parish church,
  - (b) any other church or chapel which has been consecrated for the purpose of public worship according to the rites and ceremonies of the Church of England, and
  - (c) a building licensed for public worship according to the rites and ceremonies of the Church of England.
- (4) In subsection (3)(a), “parish church” does not include a parish church which is a cathedral to which the Care of Cathedrals Measure 2011 applies.
- (5) In subsection (3)(b), the reference to a church or chapel does not include a reference to—
- (a) a cathedral church to which the Care of Cathedrals Measure 2011 applies,
  - (b) a church or chapel which is not subject to the jurisdiction of the bishop of a diocese, or
  - (c) the Cathedral Church of Christ in Oxford.
- (6) In subsection (3)(c), the reference to a building licensed for public worship does not include a reference to a building—
- (a) which is in a university, college, school, hospital or public or charitable institution but which has not been designated under section 43(2) of the Mission and Pastoral Measure 2011 as a parish centre of worship,
  - (b) which has been excluded from this Part by a direction of the bishop of the diocese with the approval of the advisory committee, or
  - (c) which is used solely for the purpose of religious services relating to burial or cremation.
- (7) A notice, order or other document required by this Part to be served on or sent or given to a person may be served, sent or given by post, by delivering it to the person, or by leaving it at the person's proper address; and for that purpose and the purposes of section 7 of the Interpretation Act 1978, a person's proper address is that person's last known address.
- (8) Nothing in this Part prejudices or affects the provisions of—

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- (a) the Ancient Monuments and Archaeological Areas Act 1979,
- (b) the Town and Country Planning Act 1990,
- (c) the Planning (Listed Buildings and Conservation Areas) Act 1990, or
- (d) an instrument made under an Act referred to in paragraph (a), (b) or (c).

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**Textual Amendments**

**F14** Words in s. 55(1) substituted (1.3.2019) by [Church Property Measure 2018 \(No. 8\)](#), s. 53(2), [Sch. 1 para. 30](#); [S.I. 2019/97](#), art. 2

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**Commencement Information**

**I21** S. 55 in force at 1.9.2018 by [S.I. 2018/720](#), art. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, PART 3.