

# Ecclesiastical Jurisdiction and Care of Churches Measure 2018

2018 No. 3

## PART 5

### MISCELLANEOUS

#### *Burials and consecration*

#### **92 Power of bishop to remove legal effects of consecration**

- (1) This section applies where the bishop of a diocese, on the application of the archdeacon of an archdeaconry in the diocese in relation to a building or land which is in the archdeaconry and which is subject to the legal effects of consecration, is satisfied that—
  - (a) the building or land is not held or controlled by an ecclesiastical corporation or a diocesan board of finance, and
  - (b) no purpose will be served by its remaining subject to the legal effects of consecration.
- (2) The bishop may by order direct that the building or land or part of it is not to be subject to the legal effects of consecration; and, accordingly, where an order under this section is made, the faculty jurisdiction ceases to extend to the building or land or part concerned.
- (3) An order under this section may impose such conditions or requirements as the bishop thinks fit as to—
  - (a) the preservation or disposal of any human remains believed to be buried in or beneath a building affected by the order or in land affected by it and of any tombstones, monuments or memorials commemorating the deceased persons;
  - (b) the maintenance of orderly behaviour in or on the building or land affected by the order.

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*Changes to legislation:* There are currently no known outstanding effects for the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, Section 92. (See end of Document for details)

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- (4) For the purposes of subsection (3)(a), the order may apply to the building or land such provisions of section 78 of and Schedule 6 to the Mission and Pastoral Measure 2011 (disposal of human remains) as are specified in the order, with or without modifications or adaptations.
- (5) A condition or requirement within subsection (3)(a) may not be imposed by an order under this section except with the consent of the Secretary of State.
- (6) A condition or requirement imposed by an order under this section is enforceable as if—
- (a) the archdeacon were the owner of the adjacent land, and
  - (b) the condition or requirement were a negative covenant expressed to be entered into for the benefit of that adjacent land.
- (7) For the purposes of subsection (6), the enforcement of a condition or requirement is to be regarded as being for the benefit of the archdeacon.
- (8) Section 84 of the Law of Property Act 1925 (which enables the Upper Tribunal to discharge or modify restrictions affecting land), other than subsection (2) of that section, does not apply in relation to a condition or requirement imposed by an order under this section.
- (9) A condition or requirement imposed by an order under this section is a local land charge; and for the purposes of the Local Land Charges Act 1975, the bishop who made the order is to be treated as the originating authority as respects the charge.
- (10) The bishop must send each order he or she makes under this section to the registrar of the diocese; and the registrar must file each order in the diocesan registry.
- (11) The registrar is entitled to such fees as may be authorised by an order under section 86 for—
- (a) filing an order under subsection (10);
  - (b) permitting a search for and inspection of an order filed under that subsection;
  - (c) providing a copy of an order filed under that subsection.
- (12) For the purposes of subsection (10), an order may be sent by post to the registrar, delivered to him or her, or left at his or her 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.
- (13) “Ecclesiastical corporation” means a corporation in the Church of England, whether sole or aggregate, established for spiritual purposes.
- (14) “Diocesan board of finance” has the same meaning as in the Endowments and Glebe Measure 1976 (see section 45 of that Measure).
- (15) The definition of “land” in Schedule 1 to the Interpretation Act 1978 does not apply to this section.

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**Commencement Information**

**II** S. 92 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, Section 92.