



# Church Property Measure 2018

2018 No. 8

VALID FROM 01/03/2019

## PART 1

### PARSONAGE LAND

#### *Dealings in parsonage house etc.*

#### **1 Sale, exchange or demolition of parsonage house**

- (1) Where the parsonage house of a benefice is inconveniently situated or is too large, or it is thought advisable for some other good and sufficient reason to dispose of the house, the incumbent of the benefice—
  - (a) may sell the house;
  - (b) may exchange the house for a house that would be suitable for the residence and occupation of the incumbent of the benefice and make or receive a payment for equality of exchange;
  - (c) may pull the house down and sell the whole or part of the site and some or all of the materials.
- (2) A house or site may be sold or exchanged under subsection (1) with adjoining land belonging to the benefice, either together or in parcels; and, in the case of a sale or exchange of part only of a house or site (see section 48(4)), it does not matter if the land in question adjoins only the part of the house or site that is not included in the sale or exchange.
- (3) Where a house has ceased to be the parsonage house of a benefice, either as a result of a new parsonage house being constituted as such or as a result of a pastoral scheme or order, a power under this section may be exercised in relation to the house and to land adjoining the house.

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- (4) Where a house has been disposed of under this section, but the whole or part of an outbuilding, garden or orchard which was not disposed of continues to be the property of the benefice, a power under this section may be exercised in relation to that property and to land adjoining or an appurtenance of or enjoyed with it.
- (5) Where the incumbent of a benefice has acquired a building or other land as or for the site of a parsonage house, a power under this section may be exercised in relation to the building or other land.
- (6) Where an excluded part of a parsonage house is vested in the incumbent or would be if the benefice were full, a power under this section may be exercised in relation to the excluded part.
- (7) Where a benefice is vacant, a power under this section is exercisable by the bishop of the diocese to which the benefice belongs.
- (8) A power under this section may not be exercised in relation to property which is vested in trustees.
- (9) The Church Commissioners may buy property which is proposed to be sold under this section if—
  - (a) the bishop of the diocese in which the property is situated and the Parsonages Board for the diocese are satisfied that the price offered is reasonably satisfactory, and
  - (b) neither the registered patron nor the PCC of a parish in the benefice concerned objects on that ground within the period specified in rules.
- (10) On a sale or exchange under this section—
  - (a) a hereditament, easement, right or privilege may be excepted, reserved, or granted over or in relation to land retained by the incumbent in the capacity as corporation sole (whether as property of or otherwise in right of the benefice);
  - (b) a hereditament, easement, right or privilege may be disposed of;
  - (c) a restriction on building, on use or on anything else may be imposed and made binding by covenant, condition or otherwise.
- (11) The proceeds of a sale or exchange under this section must be paid to the Parsonages Board for the diocese (with the Board then applying the proceeds in accordance with section 13); and the Board's receipt is a sufficient discharge to the buyer.

## **2 Construction, purchase or improvement of parsonage house**

- (1) The incumbent of a benefice may do any of the following where it is thought desirable, whether or not the current parsonage house is disposed of—
  - (a) build a house which would be suitable for the residence and occupation of the incumbent of the benefice;
  - (b) buy a house or land for the site of a house, or buy other land, which would be suitable for the residence and occupation of the incumbent of the benefice;
  - (c) make improvements to a house built, bought or acquired as property of the benefice under a power conferred by or under this Measure or any other enactment and which is proposed to be constituted as the parsonage house.

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- (2) Where a benefice is vacant, a power under this section may be exercised by the bishop of the diocese to which the benefice belongs.
- (3) Where the bishop of a diocese is, by virtue of subsection (2), building or making improvements to a house and the vacancy in the benefice is filled before the completion of the work, the incumbent succeeding to the benefice must complete the work, in so far as there is any money specially applicable or loaned by the Church Commissioners for that purpose (including any money loaned after the vacancy was filled).
- (4) In carrying out the duty under subsection (3), the incumbent must act in accordance with the plans and specifications authorised by the bishop of the diocese subject to such modifications as the bishop and the Parsonages Board agree.
- (5) If the incumbent fails to carry out the duty under subsection (3), the Parsonages Board may complete the work.
- (6) A power under this section, when exercisable by the bishop by virtue of subsection (2), includes a power to enter the land of the benefice concerned in order to exercise the power.
- (7) A body which is the patron of a benefice (including a college or hall of Oxford or Cambridge University) may make an interest-free loan to assist with—
  - (a) building a house or buying a house or other land in the benefice for the purpose mentioned in subsection (1)(a) or (b);
  - (b) (in so far as not coming within paragraph (a) of this subsection) building, rebuilding or repairing a house or other building suitable for the residence or convenience of clergy in the benefice or buying a building, or land for the site of a building, for that purpose.

### **3 Consent to dealing under section 1 or 2**

- (1) A power under section 1 or 2 may not be exercised without—
  - (a) the consent of the Church Commissioners,
  - (b) the consent of the Parsonages Board for the diocese concerned,
  - (c) the consent of the bishop of the diocese (unless the bishop is, by virtue of section 1(7) or 2(2), the person exercising the power), and
  - (d) in the case only of a power under section 1, any consent required by subsection (2) or (3) of this section.
- (2) If the property concerned is held under a grant made by or on behalf of Her Majesty in right of the Crown, the consent of the Crown Estate Commissioners is required.
- (3) If the property concerned is occupied by a member of the team in a team ministry, the consent of that member is required.
- (4) The consent of the Church Commissioners to the exercise of the power of sale or exchange under section 1 is not required if—
  - (a) the transferee is not a connected person or a trustee for or nominee of a connected person, and
  - (b) before entering into an agreement for the sale or exchange, the person entitled to exercise the power has met the conditions in subsections (7) and (8).

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- (5) The consent of the Church Commissioners to the exercise of the power to pull down a house or other building under section 1 is not required if that is the only purpose for which it is proposed to exercise the power.
- (6) The consent of the Church Commissioners to the exercise of a power under section 2 is not required if—
  - (a) no person concerned in the transaction is a connected person or a trustee for or nominee of a connected person, and
  - (b) before entering into the transaction, the person entitled to exercise the power has met the condition in subsection (7).
- (7) The condition in this subsection is that the person entitled to exercise the power—
  - (a) has obtained a written report on the proposed transaction from a qualified surveyor instructed by and acting exclusively for him or her, and
  - (b) having considered the report, is satisfied that the terms of the proposed transaction are the best that can be reasonably obtained for the benefice.
- (8) The condition in this subsection is that the person entitled to exercise the power has advertised the proposed transaction for the period and in the manner advised by the surveyor in the report, unless the surveyor has advised in the report that advertising the proposed transaction would not be in the best interests of the benefice.

#### **4 Vacancy in benefice: division, improvement etc. of parsonage house**

- (1) During a vacancy in a benefice, the bishop of the diocese may, with the consent of the Parsonages Board, authorise the sequestrators of the benefice—
  - (a) to divide the parsonage house into two or more parts or to reduce the size of the house in some other way;
  - (b) to enlarge the house;
  - (c) to make improvements to the house.
- (2) The sequestrators may, for the purpose of carrying out work authorised under subsection (1), enter the land of the benefice.
- (3) Where the parsonage house is occupied by a member of the team in a team ministry, the sequestrators may not carry out work authorised under subsection (1) without the consent of that member.
- (4) Where work is authorised under subsection (1) but the vacancy in the benefice is filled before the completion of the work, the incumbent succeeding to the benefice must complete the work, in so far as there is any money specially applicable or loaned by the Church Commissioners for that purpose (including any money loaned after the vacancy was filled).
- (5) In carrying out the duty under subsection (4), the incumbent must act in accordance with the plans and specifications authorised by the bishop subject to such modifications as the bishop and the Parsonages Board agree.
- (6) If the incumbent fails to carry out the duty under subsection (4), the Parsonages Board may complete the work.

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## **5 Representations, reports, etc.**

- (1) An incumbent or bishop who is proposing to exercise a power under section 1, 2 or 4 must give written notice to the registered patron of the benefice, and to the PCC of each parish in the benefice, of the right to make objections to the proposal or other representations on it within the period specified in rules.
- (2) If an objection is made in accordance with subsection (1), the power in question may not be exercised unless the Church Commissioners—
  - (a) have informed the person objecting that they are satisfied that the objection ought not to prevent the exercise of the power, and
  - (b) have given the person their reasons.
- (3) Where it appears desirable to the Parsonages Board of a diocese that a power under section 1, 2 or 4 should be exercised, the Board must make a report to the bishop of the diocese.
- (4) If, in response to a report under subsection (3), the bishop and the incumbent request the Parsonages Board to frame proposals for exercising the power in question, the Board may do so; and, if the Board does so, it must communicate its proposals to the bishop and the incumbent.
- (5) In a case where the benefice is vacant, subsection (4) has effect as if the references to the incumbent were omitted.
- (6) An incumbent or bishop who, in the case of a benefice for which a team ministry is established, is proposing to exercise a power under section 1, 2 or 4 in respect of the parsonage house must, if the house is or is to be occupied by the incumbent, do each of the following—
  - (a) keep every member of the team informed of matters arising from the proposal,
  - (b) afford every member of the team an opportunity to express views on the proposal, and
  - (c) have regard to those views before taking action to implement the proposal.

## **6 Leasing**

- (1) The incumbent or sequestrators of a benefice may not grant a lease of an excluded part of a parsonage house; and any lease granted in contravention of this subsection is void.
- (2) The DBF for a diocese may from time to time require the incumbent or sequestrators of a benefice in the diocese to provide the DBF with—
  - (a) particulars of any part of the parsonage land of the benefice which is subject to a lease, and
  - (b) particulars of the terms of each lease.
- (3) The county court may, on an application by the DBF for a diocese, make an order requiring a person who has failed to comply with a requirement under subsection (2) to comply with that requirement.
- (4) The bishop of a diocese may, with the consent of the DBF, authorise the sequestrators of a benefice in the diocese, subject to subsection (1), to grant a lease of parsonage land belonging to the benefice for such period as the bishop authorises; and section 59

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of the Pluralities Act 1838 (which voids contracts for letting to clergy) does not apply to a lease under this subsection.

## **7 Leases of excluded parts made before 1 April 1978**

- (1) This section applies where an excluded part of a parsonage house is subject to a lease granted before 1 April 1978.
- (2) The incumbent or the sequestrators of the benefice in question must, within seven days of receiving a sum for rent under the lease, pay the sum to the DBF for the diocese to which the benefice belongs.
- (3) A sum paid under subsection (2) is to be treated as income of the DBF arising from the diocesan glebe land and not as part of the income of the incumbent or sequestrators.
- (4) A sum due under subsection (2) is recoverable as a debt due to the DBF from the incumbent or his or her personal representatives or (as the case may be) from the sequestrators.
- (5) The DBF may require the incumbent or sequestrators to take all necessary steps to enforce the tenant's covenants under the lease, in particular the covenant to pay rent; and the DBF must indemnify the incumbent or sequestrators for costs incurred in bringing proceedings to enforce the covenants that are not recovered from another party.
- (6) If the incumbent or sequestrators fail to act under subsection (5) or ask the DBF to do so, the DBF may, on behalf of the incumbent or sequestrators, bring or continue proceedings to enforce the covenants.
- (7) The DBF must pay or reimburse the incumbent or sequestrators for—
  - (a) the cost of meeting the landlord's obligations under the lease, and
  - (b) such cost of maintaining, repairing and insuring the premises subject to the lease as has to be met by the incumbent or sequestrators.
- (8) A payment made by the DBF under subsection (7) is to be treated for the purposes of section 26(1) as part of the outgoings and expenses of the diocesan glebe land.

## **8 Transfer to DBF**

- (1) This section applies where a DBF is of the opinion—
  - (a) that the parsonage house or the whole or part of any other parsonage land of a benefice in the diocese is not required as the incumbent's official residence or for his or her convenient occupation, and
  - (b) that the house or other land should be transferred to the DBF.
- (2) The DBF must notify each of the following of the right to make within one month of the notification representations to the Church Commissioners on the proposed transfer—
  - (a) the PCC of each parish belonging to the benefice;
  - (b) the incumbent or sequestrators of the benefice;
  - (c) if there is a team ministry for the benefice, every member of the team.

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- (3) After considering any representations made in accordance with subsection (2), the Commissioners must notify the DBF and each of the persons mentioned in that subsection of their decision on the representations and the reasons for that decision.
- (4) If no representations are made in accordance with subsection (2) or the Commissioners decide that the proposed transfer should take place in spite of any representations so made, the bishop of the diocese may by order under his or her seal provide for the transfer of the land concerned to the DBF on the date specified for that purpose in the order (“the transfer date”).
- (5) A transfer under this section accordingly takes effect on the transfer date; and on that date, without the need for a deed or other document, the land is vested in the DBF—
  - (a) subject to and with the benefit of any tenancies, covenants, conditions, agreements, easements or rights to which the land was subject, and of which it had the benefit, immediately before the transfer date, and
  - (b) if the order so provides, subject to all rights which are necessary for the benefit of other parsonage land of the benefice or church land, and
  - (c) if the order so provides, with the benefit of all rights over other parsonage land of the benefice or church land which are necessary for the benefit of the land transferred.
- (6) Land which vests in a DBF under this section is held by that DBF as part of the diocesan glebe land.
- (7) A reference in subsection (5) to a right which is necessary for the benefit of land is a reference to a right in the nature of an easement which is necessary for the reasonable enjoyment of that land and which was exercisable by the incumbent in right of his or her benefice.
- (8) Where an order under subsection (4) includes provision of the kind referred to in subsection (5)(b), the rights specified in that provision in the order take effect on the transfer date as legal easements appurtenant to the land so specified.
- (9) An order under subsection (4) may specify a tenancy, covenant, condition, agreement, easement or other right subject to which, or with the benefit of which, the land vests in the DBF under this section.
- (10) The bishop of a diocese may by order under his or her seal remedy a defect in or omission from an order under subsection (4) or an order under this subsection.
- (11) An order under this section may make incidental or supplementary provision.

## **9 Return of gift of land to be used for parsonage house**

- (1) Where the whole or part of land which was acquired as a gift (otherwise than under Part 3) for the site of the parsonage house of a benefice has not been used for that purpose, and the incumbent considers it is no longer required for that purpose, the incumbent may transfer the land or the part concerned to the donor or the donor's successors in title without consideration.
- (2) The power under subsection (1) may not be exercised without—
  - (a) the consent of the Parsonages Board, and
  - (b) the consent of the bishop of the diocese to which the benefice belongs.

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## **10 Loans by Church Commissioners**

- (1) The Church Commissioners may make a loan to a bishop, incumbent or DBF for the purpose of the provision, development or improvement of parsonage land and the safeguarding of its amenities.
- (2) A loan under this section may be of such amount and made on such terms and subject to the payment of interest at such rate as the Commissioners decide.
- (3) “Development”, in relation to a building, includes the division or demolition of the building.

*Status of parsonage house etc.*

## **11 Certification etc.**

- (1) Where a house is built, bought or otherwise acquired as the parsonage house of a benefice or improvements to a house proposed to be constituted as such are completed, whether under this Part or any other enactment—
  - (a) the bishop of the diocese must certify the house as the parsonage house of the benefice, and
  - (b) the house is to be regarded for all purposes as the parsonage house of the benefice as from the date of the certificate.
- (2) Where the parsonage house of a benefice is divided into two or more parts—
  - (a) the bishop of the diocese must certify one of those parts as the parsonage house of the benefice, and
  - (b) the part certified as such is to be regarded for all purposes as the parsonage house of the benefice as from the date of the certificate.
- (3) A dwelling-house which, in the opinion of the Church Commissioners, should be retained for use as a parsonage house is to be treated as a parsonage house for the purposes of the Repair of Benefice Buildings Measure 1972 so long as it is vested in the incumbent or would be if the benefice were full.
- (4) Subsection (3) does not apply to a dwelling-house held under a lease which provides for the landlord to be wholly or mainly responsible for the repairs.
- (5) Where a question arises as to whether land is parsonage land, it is for the Church Commissioners to determine the question; and their determination is final.

*Procedure*

## **12 Conveyancing formalities**

- (1) Where a house or other land is bought, sold or exchanged under this Part, the transfer must be made by or to—
  - (a) the incumbent of the benefice in the capacity as a corporation sole, or
  - (b) where the benefice is vacant, the bishop of the diocese in the name and on behalf of the incumbent in the capacity as a corporation sole.
- (2) In a case within subsection (1)(b), once the vacancy is filled, the transfer may not be disclaimed or renounced by an incumbent succeeding to the benefice.



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- (3) Every transfer of a house or other land bought or acquired by way of exchange for a benefice under this Part must be filed in the registry of the diocese concerned in the manner specified in rules.
- (4) Where a house or other land sold or exchanged under this Part is subject to a mortgage or charge in favour of the Church Commissioners, the document giving effect to the sale or exchange discharges the land or buildings from the mortgage or charge; and the mortgage or charge attaches—
  - (a) in the case of a sale, to the money arising from the sale;
  - (b) in the case of an exchange, to the house or other land acquired on the exchange and to any money paid to the Parsonages Board for equality of exchange.
- (5) A deed or other document made under or for the purposes of this Part is not liable to stamp duty land tax.

### **13 Proceeds of sale etc.**

- (1) Where property of a benefice is sold or exchanged under section 1, the Parsonages Board for the diocese must apply any money arising from the sale or exchange for the following purposes in the following order of priority—
  - (a) in payment of the costs, charges and expenses of the sale or exchange;
  - (b) in or towards repayment of money spent with the Board's consent to make the property more saleable or exchangeable;
  - (c) where the property was bought, built or improved wholly or in part with a loan from the Church Commissioners or on the security of a mortgage or charge in their favour, in or towards repayment of the principal or interest;
  - (d) where the property was bought wholly or in part with a loan under section 2(7), in or towards repayment of the loan;
  - (e) in or towards payment to the incumbent of the whole or part of the removal costs;
  - (f) in or towards payment to the incumbent of such amounts as have been paid to the Church Commissioners to reduce a loan made by them for or towards building or buying a house suitable for the residence and occupation of the incumbent;
  - (g) in or towards repayment to the Church Commissioners of the whole or part of a grant made by them for or towards building or buying a house suitable for the residence and occupation of the incumbent;
  - (h) for or towards the exercise of a power under section 2(1) or 4(1);
  - (i) in allocation of the money to the capital account of the diocesan stipends fund or to the pastoral account of the diocese, or partly to each, depending on what the DBF decides.
- (2) In subsection (1)(e), “removal costs” means costs reasonably incurred in respect of—
  - (a) removal from one parsonage house to another,
  - (b) storage of the furniture, and
  - (c) rent paid for temporary residence pending occupation of the new parsonage house.
- (3) Money may be applied for the purpose specified in subsection (1)(e)—

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- (a) only to the extent that the income derived from the money arising from the sale or exchange pending its application under subsection (1)(a) to (d) is insufficient for that purpose, and
  - (b) only with the consent of the bishop and of the Parsonages Board.
- (4) The Parsonages Board must provide the Church Commissioners with such information as they may require concerning transactions under this Part affecting property.
- (5) Any income derived from money arising from a sale or exchange under this Part must, pending the application of the money under this section, be added to the capital by way of accumulation.
- (6) Where the Parsonages Board is proposing to apply money under subsection (1)(h) or (i), it must give written notice to the registered patron of the benefice, and to the PCC of each parish in the benefice, of the right to make representations on the proposal within the period specified in rules.
- (7) If representations are made in accordance with subsection (6), the Parsonages Board must send them to the Church Commissioners for their consideration.

#### **14 Registered patron where benefice vested in Crown or bishop**

- (1) In the case of a benefice the patronage of which is vested in or exercisable by Her Majesty in right of the Crown—
- (a) Her Majesty is the registered patron for the purposes of this Part, and
  - (b) anything which is required by this Part to be given or done by or to the registered patron is to be given or done by or to the Prime Minister.
- (2) In the case of a benefice the patronage of which is vested in or exercisable by Her Majesty in right of the Duchy of Lancaster—
- (a) Her Majesty is the registered patron for the purposes of this Part, and
  - (b) anything which is required by this Part to be given or done by or to the registered patron is to be given or done by or to the Chancellor of the Duchy of Lancaster.
- (3) In the case of a benefice the patronage of which is vested in or exercisable by the possessor for the time being of the Duchy of Cornwall—
- (a) the possessor for the time being of the Duchy is the registered patron for the purposes of this Part, and
  - (b) anything which is required by this Part to be given or done by or to the registered patron is to be given or done by or to a person authorised to act on behalf of the Duke of Cornwall under the Duchy of Cornwall Management Act 1863 (including a person authorised under section 38 or 39 of that Act).
- (4) Where the bishop of a diocese is the registered patron of a benefice in right of his or her see (either solely or alternately with others), anything which is required by this Part to be given to the registered patron need not be given to the bishop in the capacity as patron.

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## Supplementary

### 15 Rules

- (1) The power to make rules under this Part is exercisable by the Church Commissioners.
- (2) Provision must be made by rules for carrying this Part into effect.
- (3) The rules must include provision for the giving of notice—
  - (a) where the registered patron of a benefice is subject to an incapacity;
  - (b) where, in the case of any given benefice, there is a difficulty in determining who the registered patron is;
  - (c) where for some other reason it is not practicable for notice to be given to the registered patron personally.
- (4) The rules must include provision for the Church Commissioners, in an urgent case and with the consent of the registered patron and the PCC, to give a direction to dispense with—
  - (a) a requirement to give a notice under this Part;
  - (b) consideration of objections or other proceedings consequent on the giving of a notice under this Part.
- (5) Rules under this Part—
  - (a) must be laid before the General Synod, and
  - (b) may not come into force unless a draft of the instrument containing the rules has been approved by the Synod, whether with or without amendment.
- (6) If the Business Committee of the General Synod decides that the Synod does not need to debate a draft of rules under this Part, the draft is deemed to be approved by the Synod without amendment unless notice is given by a member of the Synod in accordance with its Standing Orders that—
  - (a) the member wishes the draft rules to be debated, or
  - (b) the member wishes to move an amendment to the draft rules.
- (7) The power to make rules under this Part is exercisable by statutory instrument; and for that purpose the Statutory Instruments Act 1946 applies—
  - (a) as if the rules had been made when the draft was approved by the Synod, and
  - (b) as if this Measure were an Act of Parliament providing for the instrument containing the rules to be subject to annulment in pursuance of a resolution of either House of Parliament.

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**PART 2**

## GLEBE LAND

*Responsibility for land***16 General functions of DBF**

- (1) It is the function of each DBF to hold, manage and deal with the diocesan glebe land for the benefit of the diocesan stipends fund.
- (2) Each DBF must keep the Church Commissioners informed of—
  - (a) such matters as the Commissioners specify affecting the diocesan glebe land and arising from notices given to the DBF by a public authority or a utility undertaker, and
  - (b) matters concerning transactions affecting the diocesan glebe land.
- (3) The rights appurtenant to or over parsonage land or church land that were having effect by virtue of section 15(2) or (3) of the Endowments and Glebe Measure 1976 immediately before the repeal of that provision by this Measure (being the rights necessary for the reasonable enjoyment of land that were formerly exercisable by the incumbent in right of the benefice in question) continue to have effect in spite of the repeal.
- (4) In the case of diocesan glebe land which is part of the glebe land which vested in the DBF on 1 April 1978 under section 15 of the Endowments and Glebe Measure 1976, the DBF may require the incumbent or sequestrators of the benefice in the area of which the land is situated to provide the DBF with—
  - (a) such information relating to the land as the DBF requires in order to carry out its functions under this Measure;
  - (b) such documents in the possession of, or under the control of, the incumbent or sequestrators concerning the land as the DBF specifies.
- (5) The county court may, on an application by the DBF for a diocese, make an order requiring a person who has failed to comply with a requirement under subsection (4) to comply with that requirement.
- (6) In the case of diocesan glebe land of the description given in subsection (4) that is subject to a lease which gives the landlord a right to require the tenant to provide information relating to the lease, the DBF may exercise the same right.
- (7) The reference in subsection (4)(b) to documents specified by the DBF includes a reference to documents of a description specified by it.
- (8) Subsection (3) does not affect the general application of section 16 of the Interpretation Act 1978 (general savings on repeal).

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### *Management and acquisition*

#### **17 Land management scheme**

- (1) Each scheme prepared by a DBF under section 19 of the Endowments and Glebe Measure 1976 and in force immediately before the commencement of this section is to continue in force; and the scheme is referred to in this Part as a “land management scheme”.
- (2) A land management scheme may provide for one or more committees to carry out functions specified in the scheme relating to management of the diocesan glebe land; and each of the following bodies may serve as such a committee—
  - (a) a committee of the DBF;
  - (b) the Parsonages Board;
  - (c) a committee constituted under the Repair of Benefice Buildings Measure 1972.
- (3) A land management scheme may provide for the establishment of one or more wholly owned subsidiaries of the DBF; and a subsidiary so established is referred to in this Measure as a “management subsidiary”.
- (4) A management subsidiary has, subject to the provisions of the land management scheme, the same powers and duties in relation to holding, managing and dealing with the diocesan glebe land specified in the scheme, or held by the subsidiary, as the DBF has in relation to diocesan glebe land held by it; and references in this Measure to a management subsidiary are to be read accordingly.
- (5) The DBF may, with the approval of the Church Commissioners, vary, revoke or replace a land management scheme by means of a subsequent scheme; and the scheme which has effect as a result of a revocation or replacement becomes the land management scheme.
- (6) “Subsidiary” has the same meaning as in the Companies Act 2006 (see section 1159 of that Act).

#### **18 Land management scheme: suspension**

- (1) The Church Commissioners may suspend the operation of one or more provisions of a land management scheme by giving written notice to the DBF if the Commissioners are satisfied that—
  - (a) the scheme is not being complied with, or
  - (b) the scheme is not being operated so as to result in the efficient management of the diocesan glebe land to which it relates.
- (2) A notice under subsection (1) must specify the provisions of the scheme to which the suspension applies.
- (3) The Commissioners must cancel a suspension under this section, by giving written notice to the DBF to that effect, if the DBF satisfies the Commissioners that—
  - (a) the scheme is being complied with, or
  - (b) the DBF has taken the action necessary to ensure that the scheme will be operated so as to result in the efficient management of the land.

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## **19 Acquisition and appropriation**

- (1) A DBF or a management subsidiary may acquire land to be held as part of the diocesan glebe land.
- (2) A DBF or a management subsidiary may appropriate for use as diocesan glebe land any land vested in it; and where it does so it holds the land as part of the diocesan glebe land.
- (3) The power under subsection (2) may not be exercised without the consent of the Charity Commission and—
  - (a) if the land is vested in the DBF under section 6(2) of the Parochial Church Councils (Powers) Measure 1956, the consent of the PCC, or
  - (b) if the land is vested in the DBF under section 3 of the Incumbents and Churchwardens (Trusts) Measure 1964, the consent of the managing trustees of the land.
- (4) The power of a management subsidiary under subsection (2) may not be exercised without the consent of the DBF (in addition to the consent or consents required under subsection (3)).

### *Dealings*

## **20 Dealings**

- (1) The power of a DBF or management subsidiary to deal with diocesan glebe land (whether by way of sale, exchange, lease, mortgage, charge or otherwise) is exercisable in accordance with this section and sections 21 and 22.
- (2) The DBF or subsidiary may, if it thinks it necessary, include such terms for safeguarding the amenities of land that will be affected by the proposed transaction as it considers reasonable and proper, having regard to all the circumstances.
- (3) A DBF or management subsidiary may permit a person to reside, without paying rent, in a dwelling house situated on the diocesan glebe land if the bishop of the diocese has declared that the person is engaged in the cure of souls within the diocese.
- (4) Where a DBF or management subsidiary sells, exchanges or leases diocesan glebe land and the document giving effect to the transaction includes a restrictive covenant imposed for the benefit of church land or parsonage land, the covenant is enforceable by the DBF or subsidiary as if it were the owner of that land.
- (5) A DBF or management subsidiary may grant a short lease of diocesan glebe land only if—
  - (a) it has obtained advice on the proposed transaction from a person who it believes has the necessary ability and practical experience to provide it with competent advice, and
  - (b) having considered the advice, it is satisfied that the terms of the proposed transaction are the best that can be reasonably obtained for the diocese.
- (6) “Short lease” means a lease for a term of no more than seven years which is not granted wholly or partly at a premium.

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## **21 Consent to dealings**

- (1) A DBF or management subsidiary may not enter into a transaction for any of the following dispositions of diocesan glebe land without the consent of the Church Commissioners—
  - (a) a sale;
  - (b) an exchange;
  - (c) the grant of a lease wholly or partly at a premium;
  - (d) the grant of a lease for a term of 21 years or more;
  - (e) the grant of a lease of land which, had it not become diocesan glebe land, would be an excluded part of a parsonage house;
  - (f) the grant of a lease or licence, or the making of an agreement, relating to searching for, or working and getting, mines and minerals and any other operation arising from that;
  - (g) the grant of a mortgage or charge.
- (2) The consent of the Commissioners is not required if the disposition is to a management subsidiary for the purposes of a land management scheme.
- (3) The consent of the Commissioners is not required if—
  - (a) the disposition is to a person who is not a connected person or a trustee for or nominee of a connected person, and
  - (b) before making the disposition or, where there is an agreement for the disposition, before entering into the agreement, the DBF or subsidiary has met the condition in subsection (4).
- (4) The condition in this subsection is that the DBF or subsidiary—
  - (a) has obtained a written report on the proposed transaction from a qualified surveyor instructed by and acting exclusively for it,
  - (b) has advertised the proposed transaction for the period and in the manner advised by the surveyor in the report, unless the surveyor has advised in the report that advertising the proposed transaction would not be in the best interests of the diocese, and
  - (c) having considered the report, is satisfied that the terms of the proposed transaction are the best that can be reasonably obtained for the diocese.
- (5) The consent of the Commissioners is not required if the disposition would give effect to the entitlement of a tenant under an enactment—
  - (a) to acquire an interest in the land from the DBF or subsidiary,
  - (b) to be granted an interest in the land by the DBF or subsidiary, or
  - (c) to have an interest in the land renewed or extended.
- (6) The Commissioners may, as a condition of giving consent, require the DBF or subsidiary to include in the document giving effect to the transaction—
  - (a) terms for safeguarding the amenities of land that will be affected by the transaction, and
  - (b) such other provisions as appear to the Commissioners to be necessary.

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## **22 Notice of proposed dealing**

- (1) A DBF or management subsidiary may not enter into a transaction for a disposition referred to in section 21(1) unless it has given notice of the nature of the proposed transaction to the relevant persons.
- (2) The relevant persons are, unless subsection (3) or (4) applies—
  - (a) the incumbent of the benefice to which the parish where the land is situated belongs, and
  - (b) the PCC of that parish.
- (3) Where there is a vacancy in the benefice, the relevant persons are—
  - (a) the priest-in-charge appointed for the benefice under section 86 of the Mission and Pastoral Measure 2011 or, if none is so appointed, the churchwardens of the parish in which the land is situated,
  - (b) the PCC of that parish, and
  - (c) if the proposed transaction is the grant of a lease of land which, if it had not become diocesan glebe land, would be an excluded part of a parsonage house, the bishop of the diocese.
- (4) Where a team ministry is established for the benefice, the relevant persons are—
  - (a) every vicar in the team ministry,
  - (b) if the proposed transaction relates to a house occupied by a member of the team, that member, and
  - (c) the PCC of the parish.
- (5) A notice under this section must identify—
  - (a) the land to which it relates, and
  - (b) the easements (if any) over any church land or parsonage land of which that land has the benefit.

## **23 Grants and appropriations**

- (1) A DBF or management subsidiary may grant or appropriate diocesan glebe land—
  - (a) for use as or conversion into a church;
  - (b) as a site for a new church or for enlarging the site of an existing church;
  - (c) for use as a place of worship other than a church, or as a site for a new building to be used as such or for a building to replace a building currently used as such, or for enlarging the site of a building currently used as such;
  - (d) for use as a church hall, or as a site for a new church hall or for a building to replace an existing church hall, or for enlarging the site of an existing church hall;
  - (e) for use as both a church or other place of worship and a church hall, or as a site for a building to be used as such or for enlarging the site of a building currently used as such;
  - (f) as a site for a building to replace a building currently used as both a place of worship other than a church and a church hall;
  - (g) for the provision of a new churchyard or burial ground or for the enlargement of an existing churchyard or burial ground;
  - (h) for use as a parsonage house, or as a site for a building to be used as such or for enlarging the site of a building currently used as such;



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- (i) for occupation as a garden with a parsonage house or with a building to be used as such or for the enlargement of land currently occupied as such;
  - (j) for the provision of access to, or for improving the amenities of, a church or other place of worship, a church hall, a building used as both a church or other place of worship and a church hall, a churchyard or burial ground or a parsonage house;
  - (k) for the provision of vehicle parking space for use in connection with a church or other place of worship, a church hall, a building used as both a church or other place of worship and a church hall, or a churchyard or burial ground.
- (2) The exercise of the power to make a grant or appropriation under this section is not subject to section 21 or 22.

#### **24 Loans by Church Commissioners**

- (1) The Church Commissioners may make a loan to a DBF for any of the following purposes—
- (a) the acquisition of land to be held as part of the diocesan glebe land;
  - (b) the development or improvement of diocesan glebe land and the safeguarding of its amenities;
  - (c) the discharge of any principal or interest owing under a mortgage or charge on diocesan glebe land.
- (2) A loan under this section may be of such amount and made on such terms and subject to the payment of interest at such rate as the Commissioners decide.
- (3) “Development”, in relation to a building, includes the division or demolition of the building.

#### *Procedure*

#### **25 Proceeds of sale etc.**

- (1) The proceeds of, or the capital moneys arising from, a disposition of diocesan glebe land, and any other payment in the nature of capital received in respect of diocesan glebe land, must be paid to the DBF.
- (2) Amounts paid under subsection (1) must, subject to subsection (3), be allocated to the capital account of the diocesan stipends fund.
- (3) Where, in the case of diocesan glebe land which is subject to a mortgage or charge, an estate or interest is sold or exchanged, the DBF may discharge from the proceeds any principal or interest owing under the mortgage or charge at the date of completion of the transaction.
- (4) The costs, charges and expenses of discharging sums owing under the mortgage or charge must be paid out of the capital account of the diocesan stipends fund.

#### **26 Rent and other periodical payments**

- (1) Rent and other periodical payments in the nature of income received for or in respect of diocesan glebe land must be paid to the DBF, less however much is required by the DBF or a management subsidiary to meet the outgoings and expenses of the land.

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- (2) Any other payment in the nature of income received in respect of diocesan glebe land must be paid to the DBF.
- (3) Amounts received under subsection (1) or (2) must, subject to subsection (4), be allocated to the income account of the diocesan stipends fund.
- (4) A periodical or other payment for or in respect of mines and minerals held as part of the diocesan glebe land by a DBF or management subsidiary, other than surface rent, must be allocated to the capital account of the diocesan stipends fund.
- (5) A DBF must continue to keep an account of—
  - (a) the income arising from the diocesan glebe land, and
  - (b) the expenditure incurred by the DBF or a management subsidiary in meeting the outgoings and expenses of the land.
- (6) A DBF must continue to keep an account of—
  - (a) the periodical or other payments for or in respect of mines and minerals held as part of the diocesan glebe land by the DBF or a management subsidiary, other than surface rent, and
  - (b) the expenditure incurred by the DBF or a management subsidiary in respect of fees or other charges for services in connection with the searching for, working and getting of the mines and minerals.
- (7) A reference to the outgoings and expenses of diocesan glebe land is a reference to the recurring outgoings attributable to it and the expenses incurred in managing it.

### *Disputes*

#### **27 Disputes about glebe land etc.**

- (1) This section applies in relation to the glebe land and rights which vested in a DBF on 1 April 1978 under section 15 of the Endowments and Glebe Measure 1976.
- (2) If there is a dispute between the DBF and an incumbent or sequestrators about the land or rights, or about a covenant, condition, agreement, easement or right to which the land was subject or of which it had the benefit immediately before 1 April 1978, it is for the Church Commissioners to decide the matter.
- (3) A decision made by the Commissioners under this section is final and binds the parties to the dispute and each incumbent who succeeds to the benefice.
- (4) A decision made by the Commissioners under section 15 of the Endowments and Glebe Measure 1976 continues to bind those whom it bound immediately before the commencement of this section and binds each incumbent who succeeds to the benefice.
- (5) A decision made by the Commissioners under this section must be set out in an instrument made under their seal.

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VALID FROM 01/03/2019

## PART 3

### NEWLY ACQUIRED LAND

#### 28 Acquisition of land

- (1) A DBF may acquire by purchase, exchange, gift or bequest—
  - (a) a church or part of a church;
  - (b) a building fit for use as or conversion into a church;
  - (c) land as a site for a new church or for enlarging the site of an existing church;
  - (d) a building to be used as a place of worship other than a church, or land as a site for a new building to be used as such or for a building to replace a building currently used as such or for enlarging the site of a building currently used as such;
  - (e) a building to be used as a church hall, or land as a site for a new church hall or for a building to replace an existing church hall or for enlarging the site of an existing church hall;
  - (f) a building to be used as both a church or other place of worship and a church hall, or land as a site for a building to be used as such or for enlarging the site of a building currently used as such;
  - (g) a building to replace a building currently used as both a place of worship other than a church and a church hall;
  - (h) land for the provision of a new churchyard or burial ground or for the enlargement of an existing churchyard or burial ground;
  - (i) a building to be used as a parsonage house, or land as a site for a new building to be used as such or for a building to replace a building currently so used or for enlarging the site of a building currently used as such;
  - (j) land for occupation as a garden with a parsonage house or with a building to be used as such or for the enlargement of land currently occupied as such;
  - (k) land for the provision of access to, or for improving the amenities of, a church or other place of worship, a church hall, a building used as both a church or other place of worship and a church hall, a churchyard or burial ground or a parsonage house;
  - (l) land for the provision of vehicle parking space for use in connection with a church or other place of worship, a church hall, a building used as both a church or other place of worship and a church hall, or a churchyard or burial ground.
- (2) The power of purchase under subsection (1) may not be exercised without the consent of the Church Commissioners, unless the following two conditions are met.
- (3) The first condition is that no person who is a party to the proposed transaction is a connected person or a trustee for or nominee of a connected person.
- (4) The second condition is that the person in whom the building or other land is to be vested—

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- (a) has obtained a written report on the proposed transaction from a qualified surveyor instructed by and acting exclusively for that person, and
  - (b) having considered the report, is satisfied that the terms of the proposed transaction are the best that can be reasonably obtained for that person.
- (5) A DBF may accept a gift or bequest of money to be used for or put towards the purchase of land for a purpose specified in subsection (1).
- (6) A DBF may hold any property (whether real or personal) for a purpose specified in subsection (1).
- (7) Land held by a DBF may be appropriated for a purpose specified in subsection (1) but only if the DBF has executed a declaration specifying that use; and on the execution of a declaration to that effect, the land vests in the incumbent or relevant diocesan body in accordance with section 32.

## **29 Grant of land**

- (1) Each of the following may grant land to a DBF for a purpose specified in section 28, whether by gift or for valuable consideration (whether or not it is the best consideration that could reasonably be expected to be obtained)—
- (a) a corporation, whether lay, ecclesiastical or collegiate and whether sole or aggregate;
  - (b) charity trustees for charitable purposes;
  - (c) if the land belongs to Her Majesty in right of the Crown, the Crown Estate Commissioners or whichever other government department has responsibility for managing the land;
  - (d) if the land belongs to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
  - (e) if the land belongs to the Duchy of Cornwall, the Duke of Cornwall or the person who is the possessor for the time being of the Duchy;
  - (f) if the land belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, that department.
- (2) A grant under subsection (1)(a) which would be made by the incumbent of a benefice in the capacity as a corporation sole, if there were not a vacancy in the benefice, may be made during the vacancy by the bishop of the diocese to which the benefice belongs.
- (3) Where a grant under subsection (1)(a) is made by the incumbent of a benefice in the capacity as a corporation sole or by the bishop by virtue of subsection (2), the purchase money must be paid to the DBF; and the DBF must appropriate it for the benefit of the diocesan stipends fund.
- (4) It is hereby declared for the avoidance of doubt that the power of the incumbent of a benefice in the capacity as a corporation sole or by the bishop by virtue of subsection (2) to make a grant under subsection (1)(a) includes a power to grant any part of the land held with the parsonage; but a grant under this subsection may not be made without the consent of the Parsonages Board.
- (5) A grant by charity trustees under subsection (1)(b) is, unless the charity is an exempt charity within the meaning of the Charities Act 2011 (see section 22 of that Act), to be made only—

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- (a) with the sanction of an order of the Charity Commission, or
  - (b) in accordance with such of sections 117(2) and 119 to 121 of that Act (restrictions on dispositions of land) as are applicable.
- (6) Section 337 of that Act (orders by the Charity Commission) applies to an order under subsection (5)(a) as it applies to an order under that Act.
- (7) A grant under subsection (1)(c) or (f) may not be made without the consent of the Treasury.
- (8) In section 4 of the Ecclesiastical Offices (Terms of Service) Measure 2009 (provision of housing for office holders), after subsection (8) insert—
- “(9) A person who is entitled to grant land under section 29 of the Church Property Measure 2018 (grants to diocesan board of finance) is entitled also to grant land to the Board for the purposes of its functions under this Measure.”

### **30 Land subject to rights of common**

- (1) Where land forms part of a common or part of the waste of a manor, the lord of the manor may grant the land to the DBF for a purpose specified in section 28(1).
- (2) A document which gives effect to a grant under this section by vesting the fee simple of the land in the DBF has effect as if every person with a right of common in or over the land were a party to the grant.
- (3) A grant under this section may not be made without the consent of the Secretary of State; and sections 39 and 40 of the Commons Act 2006 apply to an application for consent under this subsection as they apply to an application to the Secretary of State for consent under section 38(1) of that Act.
- (4) Where it appears to the Secretary of State that a right of common will be substantially affected by a grant under this section, he or she must, if giving consent under subsection (3), require that as a condition of that consent compensation is paid to the person entitled to that right.
- (5) In its application to a case coming within subsection (4), this Part has effect as if sections 99 to 107 of the Land Clauses Consolidation Act 1845 (compensation payments) were incorporated with it and as if the DBF were, for that purpose, the promoters of the undertaking within the meaning of that Act.

### **31 Land subject to rent etc.**

- (1) Land which is a part of land that is subject to rent may be granted to a DBF for a purpose specified in section 28(1) free from the rent if it appears to the DBF and the grantor that the remainder of the land is of sufficient value to bear the rent.
- (2) Where a grant is made in accordance with subsection (1), the remainder of the land becomes liable to the rent to which the whole of the land had been liable immediately before the grant.
- (3) The DBF may do whatever is necessary to give effect to this section.
- (4) A reference to rent includes a reference to any other annual or recurring charge.

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### **32 Vesting of land acquired by DBF**

- (1) Land acquired in accordance with section 28 or 29 vests in the incumbent for the time being of the parish in which it is situated if it is—
  - (a) a church or part of a church;
  - (b) a building fit for use as or conversion into a church;
  - (c) land acquired as a site for a new church or a church to replace an existing church or for enlarging the site of an existing church;
  - (d) land acquired for the provision of a new churchyard or burial ground or for the extension of an existing churchyard or burial ground;
  - (e) land acquired for the provision of access to, or for improving the amenities of, a church, churchyard or burial ground;
  - (f) a building to be used as a parsonage house, or land acquired as a site for a building to be used as such or for enlarging the site of a building currently used as such;
  - (g) land acquired for occupation as a garden with a parsonage house or with a building to be used as such or for the extension of land currently occupied as such;
  - (h) land for the provision of access to, or for improving the amenities of, a parsonage house.
- (2) If the area in which land of a description given in subsection (1)(a) to (e) is situated becomes a new parish under a pastoral scheme, the land vests in the incumbent for the time being of the new parish, unless the scheme provides otherwise.
- (3) Land acquired in accordance with section 28 or 29 vests in the relevant diocesan body if the whole or part of the land is, with the consent of that body, designated in the transfer as vesting in it and if the land is—
  - (a) a building to be used as a place of worship other than a church, or land acquired as a site for a building to be used as such or for enlarging the site of a building currently used as such;
  - (b) a building to be used as a church hall, or land acquired as a site for a new church hall or for enlarging the site of an existing church hall;
  - (c) a building to be used as both a church or other place of worship and a church hall, or land acquired as a site for a building to be used as such or for enlarging the site of a building currently used as such;
  - (d) land acquired for the provision of access to, or for improving the amenities of, a place of worship other than a church, a church hall or a building used as both a place of worship other than a church and a church hall;
  - (e) land acquired for the provision of vehicle parking space for use in connection with a church or other place of worship, a church hall, a building used as both a church or other place of worship and a church hall, or a churchyard or burial ground.
- (4) “Relevant diocesan body”, in relation to land, means—
  - (a) the body for the time being authorised by the diocesan synod for the diocese in which the land is situated to act as trustees of the land, or
  - (b) if there is no body so authorised, the DBF.
- (5) The PCC for the parish in which land designated as mentioned in subsection (3) is situated must keep the relevant diocesan body indemnified in respect of the matters

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specified in section 6(4) of the Parochial Church Councils (Powers) Measure 1956 (liabilities, rates, taxes, insurance costs etc.).

### **33 Land no longer required for purpose for which acquired**

- (1) Where the owner of land acquired by the Church Commissioners or a DBF for a purpose specified in section 28(1) is satisfied that the land or a part of it is no longer required for that purpose, the owner—
  - (a) may sell the land or part;
  - (b) may exchange the land or part for land which would be more suitable for that purpose and may pay or receive money for equality of exchange;
  - (c) may appropriate or transfer the land or part for an ecclesiastical purpose for the benefit of the parish in which it is situated or for an educational, charitable or public purpose relating to the parish;
  - (d) may transfer the land or part to the DBF for it to hold as part of the diocesan glebe land, if the DBF so agrees (and is not already the owner of the land);
  - (e) if the land was acquired by gift, may transfer the land or part back to the grantor, or the grantor's successors in title, for no consideration.
- (2) “Owner”, in relation to land, means—
  - (a) the person in whom the land is vested, or
  - (b) if there is a vacancy in the benefice after the land was vested in the incumbent for the time being of the benefice, the bishop of the diocese.
- (3) In the case of land of which a DBF is the owner (otherwise than in its capacity as “the relevant diocesan body” under section 32), it may execute a declaration that, from the date on which the declaration is made, the land is to be held as part of the diocesan glebe land.
- (4) The proceeds of a sale or exchange under this section must be paid to the DBF and applied by it for such purposes as it agrees with the bishop after consulting the owner (if neither the DBF nor the bishop is the owner); but the purposes for which they agree the proceeds are to be applied must be—
  - (a) for the benefit of the benefice to which the parish in which the land is situated belongs, or
  - (b) charitable purposes relating to that parish.
- (5) The reference in subsection (1) to an acquisition is a reference to an acquisition either before or after the commencement of this section and either for valuable consideration or by gift; and the reference to an acquisition by the Church Commissioners includes a reference to an acquisition by the Church Building Commissioners.
- (6) The reference in subsection (1) to the purposes specified in section 28(1) does not include a reference to—
  - (a) the purpose specified in paragraph (i) or (j) of that provision (acquisition of parsonage house etc.), or
  - (b) the purpose under paragraph (k) of that provision of providing access to or improving the amenities of a parsonage house.
- (7) This section does not authorise a sale or other disposal of consecrated land.
- (8) This section does not affect the jurisdiction of the consistory courts.

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- (9) This section does not affect any power at common law to sell land to which the power of sale under this section applies.

### **34 Consent to dealings under section 33**

- (1) In the case of land vested in the Church Commissioners, a power under section 33 may not be exercised without—
- (a) the consent of the incumbent of the benefice (if the benefice is full), and
  - (b) the consent of the bishop of the diocese to which the benefice belongs.
- (2) In any other case, a power under section 33 may not be exercised without the consent of the Church Commissioners unless the following two conditions are met.
- (3) The first condition is that no person who is a party to the proposed transaction is a connected person or a trustee for or nominee of a connected person.
- (4) The second condition is that the person entitled to exercise the power—
- (a) has obtained a written report on the proposed transaction from a qualified surveyor instructed by and acting exclusively for that person, and
  - (b) having considered the report, is satisfied that the terms of the proposed transaction are the best that can be reasonably obtained for that person.
- (5) In the case of land which has vested in the incumbent of a benefice, a power under section 33 may not be exercised without the consent of the bishop of the diocese to which the benefice belongs.
- (6) In the case of land acquired by gift or for a nominal consideration, a power under section 33(1)(c) or (d) may not be exercised without the consent of the grantor or the grantor's successors in title unless—
- (a) the purpose of appropriating or transferring the land is to widen the highway, or
  - (b) the DBF is satisfied that it is not reasonably practicable to apply for the consent.
- (7) A certificate to the effect that the DBF is satisfied as mentioned in subsection (6) (b), and to which the seal of the DBF has been applied, is sufficient evidence that the DBF is satisfied accordingly.
- (8) A person whose consent is required under subsection (1), (2) or (5) may not give that consent unless satisfied that the land or part in question is no longer required for the purpose for which the land was acquired.

### **35 Shared burial ground**

- (1) Where land is acquired by a DBF for the provision of a burial ground for two or more parishes, the DBF may direct in the transfer (or any other instrument under its seal) that each parish is entitled to use—
- (a) any chapel built on the land for the performance of the burial service, and
  - (b) any lodge or other building built on the land and any access to or from the chapel, lodge or other building concerned.
- (2) The incumbent of each parish is entitled to use the chapel for the performance of the burial service, subject to such regulations as the bishop of the diocese may make.



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- (3) A fee for the performance of the burial service in accordance with subsection (2) may be charged on the same basis as if—
  - (a) the service had been performed in the parish church, and
  - (b) the burial had taken place in a burial ground belonging solely to that parish.
- (4) If, after the consecration of the land acquired as mentioned in subsection (1), the DBF acquires additional land adjoining or near that land for the provision of a burial ground for any parish in the diocese—
  - (a) the chapel may be used for the performance of the burial service at a burial in the additional land, subject to such regulations as the bishop may make, and
  - (b) any lodge or other building or any access to or from the chapel, lodge or other building may similarly be used.
- (5) The freehold of the chapel vests in the bishop on its consecration; and the freehold of a lodge, other building or means of access built on the land concerned vests in the bishop on the completion of its construction.
- (6) But the vesting in the bishop of the chapel or of a lodge, other building or means of access does not impose any liability on the bishop to maintain it.
- (7) The DBF may apportion the burial ground (excluding the chapel and any lodge, other building or means of access) between the several parishes; and the DBF must do so if different parts of the land were acquired by it for the use of the several parishes.
- (8) Where land acquired by a DBF for the provision of a new or additional burial ground is not in the parish, or any of the parishes, for which it has been acquired—
  - (a) the DBF may declare in the transfer (or any other instrument under its seal) that, on its consecration, the land is to be treated for ecclesiastical purposes (including determination of the right of burial) as being part of the parish or parishes for which it was acquired, and
  - (b) on a declaration to that effect being made, the land is treated as such.

### **36 Supplementary**

- (1) This Part does not restrict or limit the powers of dealing under Part 1.
- (2) A deed or other document made under or for the purposes of this Part is not liable to stamp duty land tax.
- (3) This Part does not affect any power of the Charity Commission.
- (4) This Part does not enable a DBF to deal with an endowment belonging to a charity within the meaning of section 10 of the Charities Act 2011 except with the consent of the Charity Commission.

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## PART 4

### MISCELLANEOUS AND GENERAL

VALID FROM 01/03/2019

#### *Diocesan stipends fund*

#### **37 Sequestrations**

- (1) The sequestrators of a vacant benefice must, at the close of the sequestration, pay to the DBF the balance in their hands, as certified by the bishop or a person authorised by him or her; and the DBF must allocate the amount received to the income account of the diocesan stipends fund.
- (2) This section does not apply where a period of suspension of presentation follows, whether immediately or after an interval, a period during which the benefice has been vacant.

#### **38 Investments in diocesan stipends funds**

In section 4 of the Diocesan Stipends Funds Measure 1953 (application of money credited to capital account), after subsection (1) insert—

- “(1A) The proceeds of, or the capital moneys arising from, a sale, exchange or other dealing with investments or deposits made by the diocesan board of finance under subsection (1) less the costs, charges and expenses directly attributable to the transaction in question shall be allocated to the capital account of the diocesan stipends fund.
- (1B) All dividends or other payments in the nature of income received by the diocesan board of finance in respect of the investment or deposit of any moneys standing to the credit of the capital account of the fund shall be allocated to the income account of the fund.”

VALID FROM 01/03/2019

#### *Diocesan Board of Finance*

#### **39 Memorandum and articles of association**

- (1) The Memorandum and Articles of Association of a DBF are to be regarded as including the furtherance of the work of the Church of England by the DBF's exercise of functions under this Measure and whatever ancillary powers are necessary for that purpose.
- (2) In the case of a DBF which is not a registered company, the reference to the Memorandum and Articles of Association is to be read as a reference to its constitution.

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#### **40 Church Commissioners: information and advice**

- (1) The Church Commissioners may seek information from a DBF on a matter concerning its functions under this Measure; and the DBF must provide the information sought.
- (2) The Commissioners may give advice to a DBF on a matter concerning its functions under this Measure; and the DBF must have regard to the advice.

VALID FROM 01/03/2019

### *Property rights and obligations*

#### **41 Covenants**

- (1) This section applies where, in pursuance of an Act or Measure—
  - (a) the incumbent of a benefice acquires land in such a manner that it vests in the incumbent in right of the benefice,
  - (b) an archbishop or bishop acquires land on behalf of the incumbent of a benefice during a vacancy in the benefice,
  - (c) a DBF or Parsonages Board acquires land which is to vest in the incumbent of a benefice in right of the benefice, or
  - (d) land vested in the incumbent of a benefice in right of the benefice is sold or otherwise disposed of by the incumbent or by an archbishop or bishop on behalf of the incumbent during a vacancy in the benefice.
- (2) In a case within subsection (1)(a), (b) or (c), the person acquiring the land may enter into a covenant to restrict the user of, or to require an act to be done in relation to, the land being acquired or other land vested in the incumbent in right of the benefice.
- (3) In a case within subsection (1)(d), the person disposing of the land may enter into a covenant to restrict the user of, or to require an act to be done in relation to, other land vested in the incumbent in right of the benefice.
- (4) A covenant entered into under this section is, unless the transfer provides otherwise, enforceable against the incumbent for the time being of the benefice in whom the land affected by the covenant is vested.
- (5) Where an incumbent enters into a covenant under this section, the incumbent is not liable for a breach which occurs after he or she has ceased to be the incumbent.
- (6) Where a person other than an incumbent enters into a covenant under this section, that person is not liable for a breach which occurs after the land has vested in the incumbent.

#### **42 Easements**

- (1) The incumbent of a benefice or, during a vacancy, the bishop of the diocese to which the benefice belongs—
  - (a) may take an easement for an estate or interest for the benefit of land which is part of the property of the benefice;
  - (b) may grant an easement over land which is part of the property of the benefice.

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- (2) A power under subsection (1) may not be exercised without—
  - (a) the consent of the Parsonages Board, and
  - (b) where the power is exercisable by the incumbent of the benefice, the consent of the bishop of the diocese to which the benefice belongs.
- (3) A power under subsection (1) may be exercised—
  - (a) in consideration of the payment of a capital sum or a periodic sum, or
  - (b) without monetary consideration.
- (4) A capital sum payable in respect of the grant of an easement under this section must be paid to the Parsonages Board and applied by it for the purposes for which the proceeds of a sale of the land over which the easement is granted would be applicable.

#### **43 Dedicating land for highway**

- (1) The incumbent of a benefice may, either with or without consideration, dedicate for the purposes of a highway land belonging to the benefice which—
  - (a) is part of the garden or orchard or of the appurtenances of or enjoyed with the parsonage house, or
  - (b) adjoins the parsonage house.
- (2) The power under this section may not be exercised without—
  - (a) the consent of the Parsonages Board, and
  - (b) the consent of the bishop of the diocese to which the benefice belongs.
- (3) A sum paid as consideration under this section must be paid to the Parsonages Board and must be applied for the purposes for which the proceeds of a sale of the land would be applicable.

#### **44 Chancel repair liability of PCCs**

Each PCC continues to have the liability which it had immediately before the commencement of this section by virtue of section 39 of the Endowments and Glebe Measure 1976 (chancel repair liability).

#### **45 Land granted under Gifts for Churches Acts etc.**

- (1) Where the person in whom land granted under the Gifts for Churches Act 1803 or 1811 or the Consecration of Churchyards Act 1867 is vested is satisfied that the land or a part of it is no longer required for the purpose for which it was granted, the person—
  - (a) may sell the land or part;
  - (b) may exchange the land or part for land which would be more suitable for that purpose and may pay or receive money for equality of exchange;
  - (c) may appropriate the land or part to, or transfer it for, an ecclesiastical purpose for the benefit of the parish in which it is situated or for an educational, charitable or public purpose relating to the parish;
  - (d) if the land was acquired by gift, may transfer the land or part back to the grantor, or the grantor's successors in title, for no consideration.

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- (2) The power under subsection (1) may not be exercised without the consent of the bishop of the diocese in which the land is situated; and the bishop may not give the consent unless satisfied that the land or part is no longer required for the purpose for which it was granted.
- (3) In the case of land granted by gift under an Act referred to in subsection (1) which has been held for less than 20 years, the power under subsection (1) may not be exercised unless—
  - (a) an offer has been made to reconvey the land to the grantor without consideration and the grantor has not accepted the offer within six weeks after it was made, or
  - (b) the bishop has made a statutory declaration that the grantor cannot be found.
- (4) The proceeds of a sale or exchange under this section must be paid to the Parsonages Board and applied by it for such purposes as it agrees with the bishop after consulting the person by whom the land was sold or exchanged; but the purposes for which they agree the proceeds are to be applied must be—
  - (a) purposes for the benefit of the benefice to which the parish in which the land is situated belongs, or
  - (b) charitable purposes relating to that parish.
- (5) In the case of land granted under the Consecration of Churchyards Act 1867, the power under this section to sell or exchange the land may be exercised even if a right of burial has been reserved over the land under section 9 of that Act.
- (6) This section does not authorise a sale or other disposal of consecrated land.
- (7) This section does not affect the jurisdiction of the consistory courts.
- (8) Where a benefice is vacant, a power under this section which would otherwise have been exercisable by the incumbent is exercisable by the bishop of the diocese to which the benefice belongs.
- (9) A reference to the Consecration of Churchyards Act 1867 includes a reference to sections 89 to 91 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.

VALID FROM 01/03/2019

### *Formalities*

#### **46 Signification of consent**

- (1) The consent of the Church Commissioners or of the Parsonages Board or DBF of a diocese under this Measure must be signified in writing signed by a duly authorised person on behalf of the body in question.
- (2) The consent of a bishop under this Measure must be signified in writing under the bishop's hand.
- (3) The consent of each of the following under this Measure must be signified in writing—

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- (a) the incumbent of a benefice;
  - (b) the registered patron of a benefice;
  - (c) a PCC;
  - (d) the managing trustees of land vested in a DBF under section 3 of the Incumbents and Churchwardens (Trusts) Measure 1964.
- (4) The signification of consent in accordance with subsections (1) to (3) is conclusive evidence of that consent.
- (5) A document giving effect to a transaction under this Measure which requires the consent of the Church Commissioners or avoids the need for it by virtue of an exception in a provision of this Measure must state—
- (a) that the consent has been obtained, or
  - (b) that it is not required by virtue of a specified provision of this Measure.
- (6) Where a document includes a statement under subsection (5)(b), the application of the seal of the Parsonages Board or the signature of a duly authorised person on its behalf is conclusive evidence that the consent of the Church Commissioners is not required.
- (7) Where a document giving effect to a transaction under this Measure does not comply with subsection (1) or include a statement under subsection (5)(b), the transaction is valid in favour of a person who in good faith acquires an interest in the property for money or money's worth (whether under the transaction or subsequently), regardless of whether any consent required from the Church Commissioners was given.

#### **47 Execution of documents**

- (1) Where a document giving effect to a disposition of land by a DBF or management subsidiary states that the requirements of this Measure relating to the disposition have been met, the application of the seal of the DBF or subsidiary, or the signature by a duly authorised person on its behalf, is conclusive evidence that the requirements have been met.
- (2) Where a document giving effect to a disposition of land by a DBF or management subsidiary does not include a statement to that effect, the transaction is valid in favour of a person who in good faith acquires an interest in the land for money or money's worth (whether under the transaction or subsequently), regardless of whether the consent of the Church Commissioners was required.
- (3) The application of the seal of the Parsonages Board, or the signature of a duly authorised person on its behalf, to a document giving effect to a transaction under this Measure is conclusive evidence that the requirements of this Measure relating to the transaction have been met.

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### *Interpretation*

#### **48 References to land**

- (1) This section applies for the purposes of this Measure.
- (2) The “parsonage house”, in relation to a benefice, means a house which—
  - (a) is vested in the incumbent or would be if the benefice were full, and
  - (b) is the incumbent's official residence.
- (3) An “excluded part” of a parsonage house is, in a case where the house is divided into two or more parts, each of the parts which is not certified as the parsonage house under section 11(2).
- (4) A reference to the parsonage house or to any other house includes—
  - (a) a reference to a part of the house,
  - (b) a reference to the whole or part of an outbuilding, garden or orchard at the house, and
  - (c) a reference to an appurtenance of or enjoyed with the house.
- (5) “Parsonage land”, in relation to a benefice, means—
  - (a) the parsonage house of the benefice;
  - (b) an excluded part of the parsonage house;
  - (c) a building or other land which the incumbent has acquired or agreed to acquire as, or for the site of, the parsonage house;
  - (d) a building or other land which is vested in the incumbent or would be if the benefice were full and should, in the opinion of the DBF, be retained for use as, or as the site of, the parsonage house;
  - (e) a house which, under a pastoral scheme or order, ceases to be the parsonage house but is not transferred;
  - (f) a house which, otherwise than under a pastoral scheme or order, ceases to be the parsonage house and for the sale of which the Church Commissioners' consent has been given or is not required (see section 3).
- (6) “Diocesan glebe land”, in relation to a diocese, means—
  - (a) glebe land held by the DBF or a management subsidiary which vested in the DBF on 1 April 1978 under section 15 of the Endowments and Glebe Measure 1976, or
  - (b) land held by the DBF or a management subsidiary as part of the diocesan glebe land of the diocese by virtue of this Measure or a provision repealed by it or under a pastoral scheme.
- (7) “Church land” means—
  - (a) the site of a church together with the churchyard and other land annexed or belonging to the church, and
  - (b) a burial ground which is vested in the incumbent, or would be if the benefice were full, but not annexed or belonging to a church.

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- (8) “Land” includes messuages, tenements and hereditaments, houses and buildings of any tenure; and in Part 2, and in relation to parsonage land, diocesan glebe land or church land, “land”—
- (a) also includes mines and minerals and any easement, right, privilege or benefit in, over or derived from land, but
  - (b) does not include an advowson.
- (9) A reference to a “church” includes a reference to a building used or intended to be used partly for the purpose of public worship according to the rites and ceremonies of the Church of England and partly as a church hall, whether the whole building is consecrated or only the part used or intended to be used for the purpose of public worship of that kind.
- (10) “Mines and minerals” includes any stratum or seam of minerals or substances in or under land; and a reference to minerals includes a reference to sand or gravel.
- (11) A reference to granting land includes a reference to granting a leasehold interest in it; and a reference to buying or otherwise acquiring land includes a reference to taking a leasehold interest in it.
- (12) “Lease” includes an underlease and a tenancy; and a reference to a lease includes a reference to an agreement for lease.
- (13) In relation to an area or place which is situated partly in one diocese and partly in another, a reference to the bishop of the diocese is to be read as a reference to the bishop of each of the dioceses.

#### **49 Other interpretation etc.**

- (1) This section applies for the purposes of this Measure.
- (2) “DBF”, in relation to a diocese, means the board—
- (a) constituted as the diocesan board of finance for that diocese under the Diocesan Boards of Finance Measure 1925, or
  - (b) recognised in the case of that diocese under section 9 of the Diocesan Stipends Funds Measure 1953.
- (3) “Management subsidiary” has the meaning given in section 17.
- (4) “PCC” means parochial church council.
- (5) A reference to the Parsonages Board for a diocese is, if the DBF has been designated as the Parsonages Board under the scheme under section 1(1) of the Repair of Benefice Buildings Measure 1972, a reference to it.
- (6) “Connected person”, in relation to a dealing with land in a diocese, means—
- (a) the incumbent of the benefice in the area of which the land is situated,
  - (b) the bishop of the diocese,
  - (c) the registered patron of the benefice,
  - (d) an officer, agent or employee of the registered patron,
  - (e) a member, officer, agent or employee either of the PCC of a parish within the benefice or of the DBF concerned,
  - (f) the spouse or civil partner of a person within paragraphs (a) to (e), or



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- (g) a child, parent, grandchild, grandparent, brother or sister of a person within paragraphs (a) to (e).
- (7) “Qualified surveyor” means a person who is a member of the Royal Institution of Chartered Surveyors.
- (8) A person may not instruct a qualified surveyor for the purposes of this Measure unless that person reasonably believes that the surveyor has ability in and experience of the valuation of land or other property of the kind concerned and in the area concerned.
- (9) “Benefice” means the office of a rector or vicar of a parish or parishes with cure of souls but does not include the office of vicar in a team ministry.
- (10) “Registered patron” has the same meaning as in the Patronage (Benefices) Measure 1986.
- (11) “Pastoral scheme” and “pastoral order” each have the same meaning as in the Mission and Pastoral Measure 2011 (see section 106(1) of that Act).
- (12) A reference to giving notice to, or to notifying, a person includes a reference to doing so by electronic means.

VALID FROM 01/03/2019

*Ancillary provision*

**50 Consequential amendments**

- (1) Schedule 1 (which contains consequential amendments) has effect.
- (2) The amendments made by Part 2 of that Schedule (subordinate legislation) do not affect the power to make further provision amending or revoking the provision made by any of the amendments.

**51 Transitional and saving provision**

Schedule 2 (which contains transitional and saving provision) has effect.

**52 Repeals and revocations**

The provisions specified in Schedule 3 are repealed or revoked to the extent so specified.

*Final provision*

**53 Commencement**

- (1) This section and sections 54 and 55 come into force on the day on which this Measure is passed.

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- (2) The preceding provisions of this Measure come into force on such day as the Archbishops of Canterbury and York may by order jointly appoint; and different days may be appointed for different purposes.
- (3) The Archbishops of Canterbury and York may by order jointly make transitional, transitory or saving provision in connection with the commencement of a provision of this Measure.
- (4) The power to make an order under subsection (2) or (3) is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies as if the order had been made by a Minister of the Crown and as if this Measure were an Act of Parliament.

#### **54 Extent**

- (1) This Measure extends to—
  - (a) the whole of the province of Canterbury, but with extent to the Channel Islands subject to subsection (2), and
  - (b) the whole of the province of York except the Isle of Man.
- (2) The provisions of this Measure may be applied to the Channel Islands, or either of them, in accordance with the Channel Islands (Church Legislation) Measures 1931 and 1957; and a reference in this section to the Channel Islands or either of them has the same meaning as a reference in those Measures to the Islands or either of them.

#### **55 Short title**

This Measure may be cited as the Church Property Measure 2018.

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