



# Church Property Measure 2018

2018 No. 8

## 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.
- (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.

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- (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.
- (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).
- (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

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- (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.

#### **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 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.
- (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.

## **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.