



Church of England (Miscellaneous Provisions) Measure 2020

2020 No. 1

Care of churches

5 Cathedrals: power to vary or revoke approvals

(1) In section 8 of the Care of Cathedrals Measure 2011 (application for approval of fabric advisory committee), after subsection (3) insert—

“(4) The fabric advisory committee, whether on the application of the Chapter or on its own initiative, may vary or revoke an approval, or a condition of an approval, given under this section.

(5) The fabric advisory committee may not exercise the power under subsection (4) in a way which would, in its opinion, result in the approval of a proposal substantially different from the proposal originally given approval.

(6) Subsection (3) applies to a decision by the fabric advisory committee to exercise, or not to exercise, the power under subsection (4) as it applies to a decision by it whether to give, or to refuse to give, its approval to a proposal.

(7) For the purposes of subsection (6), subsection (3) has effect as if for paragraph (c) there were substituted—

“(c) to any body or person to whom notice of the original application was required to be sent by virtue of subsection (1) (b).”

(2) In section 9 of that Measure (application for approval of Cathedrals Fabric Commission), after subsection (7) insert—

“(7A) The Commission, whether on the application of the Chapter or on its own initiative, may vary or revoke an approval, or a condition of an approval, given under this section (including an approval given by virtue of subsection (8)).

- (7B) The Commission may not exercise the power under subsection (7A) in a way which would, in its opinion, result in the approval of a proposal substantially different from the proposal originally given approval.
- (7C) Subsection (7) applies to a decision by the Commission to exercise, or not to exercise, the power under subsection (7A) as it applies to a decision by it whether to give, or to refuse to give, its approval to a proposal.”
- (3) In section 10 of that Measure (appeal to Cathedrals Fabric Commission), after subsection (1) insert—
- “(1A) Where the fabric advisory committee decides to exercise, or not to exercise, the power under section 8(4) to vary or revoke an approval or a condition of an approval, the Chapter may within the prescribed period appeal to the Commission.”
- (4) In subsection (3) of that section, after “subsection (1)” insert “or (1A)”.
- (5) In section 11 of that Measure (Commission of Review), in subsection (1), after paragraph (a) and the following “or” insert—
- “(aa) the Commission decides to exercise, or not to exercise, the power under section 9(7A) to vary or revoke an approval or a condition of an approval, or”.
- (6) In that subsection, after paragraph (b) insert “or
- (c) on an appeal to the Commission under section 10(1A), the Commission refuses to reverse or vary a decision or any part of a decision by the fabric advisory committee to exercise, or not to exercise, the power under section 8(4) to vary or revoke an approval or a condition of an approval,”.
- (7) In section 13 of that Measure (registers of applicants), after subsection (1) insert—
- “(1A) Each register kept under subsection (1) shall, if an approval dealt with by the body keeping the register is varied or revoked or a condition of such an approval is varied or revoked, record the variation or revocation.”
- (8) In section 14 of that Measure (right of appeal by tenant), in subsection (1)—
- (a) after “Where the Commission or a fabric advisory committee” insert “—
- (a)”,
- (b) after “subject to conditions,” insert “or
- (b) has decided to exercise, or not to exercise, the power to vary or revoke an approval or a condition of an approval for a proposal for the carrying out of works by a tenant for which the Chapter’s consent is required,” and
- (c) the words from “the tenant may,” to the end become full-out words beneath the new paragraphs (a) and (b).

6 Disused burial grounds: approval for building, etc.

- (1) In section 2 of the Care of Cathedrals Measure 2011 (approval required for alterations to cathedrals), after subsection (2) insert—

- “(2A) The Chapter of a cathedral shall not implement or consent to the implementation of a proposal for the erection of a building on a disused burial ground the fee simple in which is vested in the corporate body, unless the proposal has been approved under this Measure.
- (2B) The requirement under subsection (2A) for the approval of a proposal is in addition to any requirement under subsection (1) for the approval of the proposal.”
- (2) In section 5 of that Measure (fabric advisory committee), after subsection (1) insert—
- “(1A) But the power under subsection (1)(b) may not be exercised in relation to proposals of the kind described in section 2(2A).”
- (3) In section 6 of that Measure (body to which applications for approval are to be made), in subsection (1), after paragraph (a) and the following “or”, insert—
- “(aa) the proposal would involve the erection of a building on a disused burial ground, or”.
- (4) In section 9 of that Measure (applications to Cathedrals Fabric Commission), in each of subsections (1) and (7)(e), after “a proposal of a kind described in section 2(1)(a)” insert “or (2A)”.
- (5) After subsection (3) of that section insert—
- “(3A) In the case of a proposal of the kind described in section 2(2A), the Commission may, in spite of section 3 of the Disused Burial Grounds Act 1884 (which prohibits building on disused burial grounds except for the purpose of enlarging a place of worship), give its approval if either of the following conditions is met.
- (3B) The first condition is that no interments have taken place in the land on which the building is to stand during the period of 50 years preceding the date of the application for approval of the proposal.
- (3C) The second condition is that—
- (a) no personal representative or relative of a person whose remains have been interred in the land during that period has objected to the proposal, or
- (b) any such objection has been withdrawn.
- (3D) In subsection (3C), “relative”, in relation to a person, means—
- (a) a spouse or civil partner, parent or grandparent or child or grandchild of the person, or
- (b) a person who is, or is a child of, a brother, sister, uncle or aunt of the person.
- (3E) The reference in subsection (3D)(a) to a person’s spouse includes a reference to a spouse of the same sex as that person.”
- (6) In each of rules 7(4)(c) and 19(3)(e) of, and in each of Forms 8, 9, 20 and 21 in Schedule 2 to, the Care of Cathedrals Rules 2006 (S.I. 2006/1941) (requirements to notify local planning authority of application), after “section 2(1)(a)” insert “or (2A)”.
- (7) The Schedule (which updates certain cross-references in the Care of Cathedrals Rules 2006) has effect.

Status: This is the original version (as it was originally enacted).

- (8) The amendments made by subsection (6) and the Schedule do not affect the power to make further rules amending or revoking the provision made by those amendments.
- (9) In section 44 of the Mission and Pastoral Measure 2011 (use of certain churchyards and burial grounds), after subsection (6) insert—

“(7) In this section “relative”, in relation to a person, means—

- (a) a spouse or civil partner, parent or grandparent or child or grandchild of the person, or
- (b) a person who is, or is the child of, a brother, sister, uncle or aunt of the person.

(8) The reference in subsection (7)(a) to a person’s spouse includes a reference to a spouse of the same sex as that person.”

- (10) In section 63 of that Measure (contents of pastoral (church buildings disposal) scheme), after subsection (14) insert—

“(15) In this section “relative”, in relation to a person, means—

- (a) a spouse or civil partner, parent or grandparent or child or grandchild of the person, or
- (b) a person who is, or is the child of, a brother, sister, uncle or aunt of the person.

(16) The reference in subsection (15)(a) to a person’s spouse includes a reference to a spouse of the same sex as that person.”

- (11) In section 64 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (erection of building on disused burial ground), after subsection (4) insert—

“(5) Relative”, in relation to a person, means—

- (a) a spouse or civil partner, parent or grandparent or child or grandchild of the person, or
- (b) a person who is, or is the child of, a brother, sister, uncle or aunt of the person.

(6) The reference in subsection (5)(a) to a person’s spouse includes a reference to a spouse of the same sex as that person.”

7 Inspection of churches etc: appointment of inspector

- (1) In section 45 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (“the 2018 Measure”) (scheme for inspections), in subsection (2)—

- (a) in paragraph (c), for “one or more qualified persons approved by the advisory committee” substitute “persons”, and
- (b) omit paragraphs (d) and (e).

- (2) After subsection (2) of that section insert—

“(2A) In relation to each church in the diocese, the provision specified in subsection (2)(c) must provide—

- (a) for the PCC of the parish in which the church is situated to appoint a person to inspect the church and to make a report on the inspection,
- (b) for the PCC not to make the appointment unless it—

- (i) has obtained and had regard to advice from the advisory committee on the appointment, and
 - (ii) is satisfied that the person to be appointed has the necessary qualifications and experience, and
 - (c) for a copy of the report on the inspection to be sent to—
 - (i) the archdeacon of the archdeaconry in which the church is situated,
 - (ii) the PCC,
 - (iii) the incumbent of the benefice to which the parish in which the church is situated belongs, and
 - (iv) the secretary of the advisory committee.
- (2B) In relation to each relevant building in the diocese, the provision specified in subsection (2)(c) must provide—
 - (a) for the manager of the building to appoint a person to inspect the building and to make a report on the inspection,
 - (b) for the manager of the building not to make the appointment unless the manager—
 - (i) has obtained, and had regard to, advice from the advisory committee on the appointment, and
 - (ii) is satisfied that the person to be appointed has the necessary qualifications and experience, and
 - (c) for a copy of the report on the inspection to be sent to—
 - (i) the archdeacon of the archdeaconry in which the building is situated,
 - (ii) the secretary of the advisory committee, and
 - (iii) the Church Buildings Council.”
- (3) In subsection (3) of that section (power to establish further scheme), in paragraph (b), for “subsection (2)(a) to (e)” substitute “subsection (2)(a) to (c)”.
- (4) After subsection (4) of that section insert—

“(4A) In exercising a function under the scheme referred to in this section, a PCC, the manager of a relevant building or an advisory committee must have regard to any guidance issued by the Church Buildings Council.”
- (5) After subsection (5) of that section insert—

“(5A) A reference to the manager of a relevant building is—
 - (a) if the building is held on charitable trusts, a reference to the persons who have the general control and management of the administration of the charity;
 - (b) in any other case, a reference to the person who has the general control and management of the building.”
- (6) Omit subsection (6) of that section (which defines “qualified person”).
- (7) In section 47 of the 2018 Measure (archdeacon’s power to require inspection of church), in subsection (1), omit “by a qualified person”.
- (8) Omit subsection (7) of that section (which defines “qualified person”).

Status: This is the original version (as it was originally enacted).

- (9) In section 48 of the 2018 Measure (power to require inspection of other place of worship), in each of subsections (1) and (2), omit “by a qualified person”.
- (10) In subsection (4) of that section, for “and “qualified person” each have” substitute “has”.