



# Diocesan Boards of Education Measure 2021

2021 No. 1

## *Interpretation*

### **19 Meaning of “church school”**

- (1) This section applies for the purposes of this Measure.
- (2) A foundation or voluntary school is a “church school” if it meets at least one of the following conditions.
- (3) Those conditions are—
  - (a) that at least one member of the governing body of the school is a foundation governor appointed for the purpose of securing that the Church of England character of the school is preserved and developed;
  - (b) that the premises provided for the school when it was first established were so provided on trust that, if the school were to be discontinued, the property concerned was to be held for, or to be sold and the proceeds of sale applied for, the benefit of the Church of England;
  - (c) that some or all of the premises currently occupied by the school were provided on trust in connection with the conduct of an educational institution or the provision of education according to the tenets of the Church of England.
- (4) An Academy is a “church school” if it meets at least one of the following conditions.
- (5) Those conditions are—
  - (a) that the directors of the company that is the proprietor of the Academy are required by the proprietor's articles of association to secure that the Church of England character of the Academy is preserved and developed;
  - (b) that the proprietor's articles of association provide that the conduct of the Academy or the provision of education there must be in accordance with the tenets of the Church of England;

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- (c) that the premises provided for the Academy when it was first established were so provided on trust that, if the Academy were to be discontinued, the property concerned was to be held for, or to be sold and the proceeds of sale applied for, the benefit of the Church of England;
  - (d) that some or all of the premises currently occupied by the Academy were provided on trust in connection with the conduct of an educational institution or the provision of education according to the tenets of the Church of England.
- (6) A foundation or voluntary school or an Academy is a “church school” if, despite not meeting any of the conditions in subsection (3) or (5) (as the case may be), it is nonetheless designated as “Church of England” by an order under section 69(3) of the School Standards and Framework Act 1998 (in a case where it has been decided that the conduct of the school or Academy or the provision of education there is in accordance with the tenets of the Church of England).
- (7) In subsection (5)(b), the reference to the requirement for the provision of education at an Academy to be in accordance with the tenets of the Church of England is not to be read as a requirement for all the education provided there to be in accordance with those tenets.
- (8) The Archbishops' Council may, in consequence of provision about education made by or under an Act of Parliament, by order amend the definition of “church school” for the purposes of this Measure; and subsections (2) to (8) of section 16 apply in relation to an order under this section as they apply in relation to an order under that section.

## 20 Other interpretation

- (1) In this Measure—
- “Academy” has the same meaning as in the Education Act 1996 (see section 579(1) of that Act);
  - “Board of Finance”, in relation to a diocese, means the Diocesan Board of Finance for the diocese;
  - “church educational endowment” means an endowment which, or the income of which, may be applied for purposes of education which include the purposes of religious education according to the faith and practice of the Church of England;
  - “CIO” means charitable incorporated organisation;
  - “consent” means written consent;
  - “DBE” means diocesan board of education (see also subsection (2) of this section and section 3(8));
  - “foundation governor” means a person appointed as a foundation governor in accordance with regulations under section 19 of the Education Act 2002;
  - “function” has the meaning given in section 2(3);
  - “proprietor”, in relation to an Academy, has the same meaning as in the Academies Act 2010;
  - “register of charities” means the register kept under section 29 of the Charities Act 2011.
- (2) A reference in this Measure to the DBE, in relation to a church school, is a reference to the DBE for the diocese in the area of which the school is situated.

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- (3) A reference in this Measure to a scheme under section 3 is to be construed in accordance with section 4(8).
- (4) In this Measure, “head teacher” includes an acting head teacher; and—
- (a) in the case of a foundation or voluntary school which forms part of a federation, a reference in this Measure to the head teacher is to be read as a reference only to the head teacher of the federation (with “federation” having the meaning given in section 24(2) of the Education Act 2002);
  - (b) in the case of an Academy the principal of which is not also the chief executive officer of the proprietor, a reference in this Measure to the head teacher is to be read as a reference only to the chief executive officer.
- (5) A reference in this Measure to an endowment includes a reference to property which is not subject to any restriction on the expenditure of capital.
- (6) A reference in this Measure (except in subsection (7)(a) and (b) of this section) to the archbishop of a province is, if there is a vacancy in the archbishopric or the archbishop is unable to exercise a function under this Measure, to be read as a reference to the archbishop of the other province.
- (7) A reference in this Measure to the archbishop of a province in which a diocese is situated is a reference—
- (a) in the case of the diocese of Canterbury, to the Archbishop of York;
  - (b) in the case of the diocese of York, to the Archbishop of Canterbury.
- (8) A reference in this Measure to provision made by or under another Measure or an Act of Parliament includes a reference to provision made after the passing of this Measure.
- [<sup>F1</sup>(9) For the purposes of this Measure, where a meeting is held in more than one place (including electronic, digital or virtual locations, web addresses or conference call telephone numbers) and accordingly without any, or without all, of the persons being together in the same place—
- (a) a reference to attending the meeting includes a reference to attending it by electronic means (including by telephone conference, video conference, live webcast or live interactive streaming), and
  - (b) a person is to be regarded as attending the meeting at any given time if the person is at that time able to hear and be heard by, and where practicable to see and be seen by, the other persons attending.]

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#### Textual Amendments

- F1** S. 20(9) inserted (25.1.2024) by [Church of England \(Miscellaneous Provisions\) Measure 2024 \(No. 1\)](#), s. 22(2)(j), [Sch. 2 para. 7](#)

**Changes to legislation:**

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