



# Diocesan Boards of Education Measure 2021

2021 No. 1

## *Structure*

### **3 Single DBE**

- (1) Each diocesan synod must make a scheme designating one of the following as the DBE for the diocese—
  - (a) a company limited by guarantee, or a charitable incorporated organisation (“CIO”), which is registered in the register of charities,
  - (b) an unincorporated body which is registered in the register of charities, or
  - (c) the Diocesan Board of Finance (referred to in this Measure as “the Board of Finance” for the diocese).
- (2) The first scheme under this section must implement a proposal made by the bishop of the diocese with the consent of the existing DBE.
- (3) A subsequent scheme under this section must implement a proposal which—
  - (a) if the existing DBE comes within subsection (1)(a) or (b), is made by the bishop of the diocese with the consent of the existing DBE;
  - (b) if the existing DBE comes within subsection (1)(c), is made by the bishop of the diocese after consultation with the existing DBE and with the consent of the Board of Finance.
- (4) If the archbishop of the province in which the diocese is situated considers that consent under subsection (3) is being unreasonably withheld or delayed, the archbishop may authorise the bishop to make the proposal to the diocesan synod without having obtained that consent; and subsection (3) is accordingly to be read subject to this subsection.
- (5) Before giving an authorisation under subsection (4), the archbishop must consult the Charity Commission on the proposed terms of the scheme; and if the Charity Commission does not respond within the period of 90 days beginning with the day

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on which the proposed terms are sent to the Charity Commission for that purpose, the Charity Commission is to be regarded as having no comments on the proposed terms.

- (6) Where the first scheme under this section provides that the existing DBE for a diocese is to be designated as the DBE for the diocese, the existing DBE must, pending the coming into operation of the scheme, take such steps as it considers necessary for securing compliance with the requirements of this Measure.
- (7) On the coming into operation of a scheme under this section which designates the Board of Finance as the DBE for the diocese, a committee of the Board of Finance is established under this section; and the purpose of that committee is to exercise the DBE's functions on behalf of the Board of Finance.
- (8) Accordingly, in the application of this Measure to a case where the Board of Finance is so designated, a reference to the DBE for the diocese is to be read as a reference to the committee established under this section.
- (9) Schedule 1 makes further provision about a scheme under this section.
- (10) The provisions in Schedule 2 apply in relation to the DBE for each diocese.

#### **Commencement Information**

- II** [S. 3\(10\)](#) comes into force in relation to each diocese on the day certified in relation to that diocese under s. 23(1), see [s. 24\(4\)](#)

## **4 Joint DBE**

- (1) A diocesan synod may make a scheme with one or more other diocesan synods designating either of the following as joint DBE for both or all of the dioceses concerned—
  - (a) a company limited by guarantee, or a CIO, which is registered in the register of charities, or
  - (b) an unincorporated body which is registered in the register of charities.
- (2) A scheme under this section may not, accordingly, designate the Board of Finance as a joint DBE.
- (3) Where there is a joint DBE, the diocesan synods concerned may make a scheme with one or more other diocesan synods designating the joint DBE as the DBE for the other diocese or dioceses too.
- (4) A scheme under this section must implement a proposal made by the diocesan bishops concerned acting jointly—
  - (a) except in so far as paragraph (b) applies, with the consent of each of the DBEs concerned (including in the case of a scheme under subsection (3), the consent of the joint DBE), and
  - (b) if any of the DBEs concerned comes within section 3(1)(c), after consultation with that DBE and with the consent of the Board of Finance of the diocese concerned.
- (5) If the archbishop of the province in which one or more of the dioceses concerned is situated considers that consent under subsection (4) is being unreasonably withheld or delayed, the archbishop may authorise the bishop or bishops concerned to join in

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making the proposal to the diocesan synod without having obtained that consent; and subsection (4) is accordingly to be read subject to this subsection.

- (6) Before giving an authorisation under subsection (5), the archbishop must consult the Charity Commission on the proposed terms of the scheme; and if the Charity Commission does not respond within the period of 90 days beginning with the day on which the proposed terms are sent to the Charity Commission for that purpose, the Charity Commission is to be regarded as having no comments on the proposed terms.
- (7) Where a scheme is made under this section, each of the diocesan synods which made the scheme is to be regarded as having complied with section 3(1).
- (8) Schedule 1 (except paragraph 3) applies to a scheme under this section as it applies to a scheme under section 3; and a reference in this Measure to a scheme under section 3 includes a reference to a scheme under this section.
- (9) Where there is a joint DBE, this Measure has effect in relation to each of the dioceses concerned as if a reference to the DBE were a reference to the joint DBE.
- (10) In section 19 of the Dioceses, Pastoral and Mission Measure 2007 (schemes for discharge of functions of diocesan bodies), in subsection (1), at the end insert “ or a Diocesan Board of Education ”.”

## **5 Incorporation**

- (1) A DBE which is an unincorporated body may, if it has obtained the consent of the bishop of the diocese and the diocesan synod, take such steps as it considers necessary for securing its incorporation as a company limited by guarantee, or a CIO, which is capable of being registered in the register of charities.
- (2) Where the Board of Finance is designated as the DBE for the diocese under section 3, the committee established under that section may, if it has obtained the consent of the bishop of the diocese, the diocesan synod and the Board of Finance, take such steps as it considers necessary for there to be a scheme under section 3 designating as the DBE for the diocese a company limited by guarantee, or a CIO, which is registered in the register of charities.
- (3) The power under subsection (1) may be exercised before the first scheme is made under section 3 or subsequently.
- (4) Any conflict of interest or loyalty which would or might arise on the incorporation of a DBE as a result of one or more of the charity trustees of the charity in its unincorporated form being charity trustees of the charity in its incorporated form is authorised by virtue of this subsection; but this subsection applies only where the value of the assets being transferred on the incorporation exceeds the amount of any liabilities being transferred.
- (5) For the purposes of each of the following provisions, “trust corporation” includes a DBE which is a company limited by guarantee or CIO—
  - (a) section 117(1)(xxx) of the Settled Land Act 1925;
  - (b) paragraph (18) of section 68(1) of the Trustee Act 1925;
  - (c) section 205(1)(xxviii) of the Law of Property Act 1925;
  - (d) section 55(1)(xxvi) of the Administration of Estates Act 1925;
  - (e) section 128 of the Senior Courts Act 1981.

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- (6) In the case of a joint DBE which is an unincorporated body, subsection (1) has effect as if—
- (a) the reference to the bishop of the diocese were a reference to the diocesan bishops concerned acting jointly, and
  - (b) the reference to the diocesan synod were a reference to each of the diocesan synods concerned.

## **6 Director of education**

- (1) For each diocese, there is to continue to be a director of education.
- (2) The director of education for a diocese is appointed by the bishop of the diocese after consultation with the DBE.
- (3) Each person who is the director of education for a diocese immediately before the commencement of this section continues as such after that commencement in accordance with the terms of the person's appointment; but, after the commencement of section 3(10) and Schedule 2, this subsection has effect subject to subsection (5) of this section.
- (4) The person who is the director of education for a diocese—
  - (a) serves also as secretary to the DBE for the diocese, but
  - (b) is not a member of the DBE, and
  - (c) where the DBE is a separately registered charity, is not a charity trustee of the DBE.
- (5) Where there is a joint DBE, there is a single director of education for both or all of the dioceses appointed by the diocesan bishops concerned acting jointly; and subsection (4) accordingly applies to both or all of the dioceses.
- (6) The director of education for a diocese may speak at any meeting of the DBE but may not vote.

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