



# Cathedrals Measure 2021

2021 No. 2

PROSPECTIVE

## *Property*

### **20 Property held by Chapter as trustee**

- (1) In the case of each cathedral, neither the cathedral church building nor any outstanding inventory object may be—
  - (a) charged with any debts or liabilities of the Chapter, or
  - (b) alienated.
- (2) No value is to be given on the Chapter's balance sheet for the cathedral church building or any outstanding inventory object.
- (3) If the Chapter of a cathedral ceases to exist, the trusteeship of the cathedral church building and of any outstanding inventory object is transferred to the diocesan board of finance; it cannot otherwise be transferred from the Chapter.
- (4) If the trusteeship referred to in subsection (3) has already been transferred under that subsection, the diocesan board of finance or any subsequent transferee may not transfer the trusteeship without having obtained the consent of the bishop of the diocese.
- (5) If there is a transfer under subsection (3) or (4), the new trustee holds the cathedral church building and the outstanding inventory objects on the trusts on which they were held immediately before the transfer took place (and for no other purpose).
- (6) “Outstanding inventory object”, in relation to a cathedral, means an object which—
  - (a) is included in the inventory compiled and maintained for the cathedral for the purposes of section 24(1)(a) of the Care of Cathedrals Measure 2011, and
  - (b) is designated in that inventory as outstanding.

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## **21 Acquisition of land**

- (1) The Chapter of a cathedral may not acquire land unless it has obtained the consent of the Church Commissioners.
- (2) Consent under this section is not required for the acquisition of land by gift.
- (3) The Chapter of a cathedral may disclaim land which it would otherwise acquire by gift, but only if it has obtained the consent of the Church Commissioners.
- (4) The Church Commissioners may by order except from subsection (1)—
  - (a) transactions relating to land forming part of an estate specified in the order;
  - (b) transactions of a class, or relating to property of a class, specified in the order.
- (5) A statement in writing by the Church Commissioners that the requirements of this section with respect to the acquisition have been complied with is conclusive evidence of that fact.
- (6) A statement in a document sealed by the Chapter that the consent of the Church Commissioners under this section is not required is conclusive evidence of that fact.

## **22 Disposal of land**

- (1) The Chapter of a cathedral may not dispose of land unless it has obtained the consent of the Church Commissioners.
- (2) The Chapter of a cathedral may not dispose of a house of residence unless it has obtained (in addition to the consent required under subsection (1))—
  - (a) the consent of the dean or residentiary canon who normally occupies the house, except during a vacancy in the office concerned, and
  - (b) if the house is allocated for the use of the holder of a dignity the right of presentation to which is vested in Her Majesty, Her consent.
- (3) Subsections (1) and (2) do not apply to a house of residence occupied by or allocated for the use of the holder of an office who is subject to common tenure.
- (4) Consent under this section is not required for—
  - (a) the grant of a lease or tenancy to a clerk in Holy Orders holding office in the cathedral or to a person employed by the Chapter;
  - (b) a transaction relating to land which, immediately before the original appointment date under the Cathedrals Measure 1999, was held by the dean and chapter of the cathedral of St. Paul in London as part of the Tillingham estate.
- (5) The Church Commissioners may by order except from subsections (1) and (2)—
  - (a) transactions relating to land forming part of an estate specified in the order;
  - (b) transactions of a class, or relating to property of a class, specified in the order.
- (6) A disposal of land by the Chapter of a cathedral which does not require consent under this section must nevertheless comply with Part 7 of the Charities Act 2011 (charity land).
- (7) Consent under subsection (1) or (2) may be given even if the consideration for the disposal is not the full consideration but consent is not needed if the Church

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Commissioners give a statement in writing that the disposal is of the kind described in section 117(3)(c) or (d) of the Charities Act 2011 (transaction at undervalue).

- (8) A statement in writing by the Church Commissioners that the requirements of this section with respect to the disposal have been complied with is conclusive evidence of that fact.
- (9) A statement in a document sealed by the Chapter that the consent of the Church Commissioners under this section is not required is conclusive evidence of that fact.
- (10) The reference in subsection (2) to a house of residence includes a reference to the buildings, gardens and other land held with the house.

## **23 Questions as to whether property permanently endowed**

- (1) If a question arises as to whether property held by or on behalf of the Chapter of a cathedral is or is not permanent endowment, it is for the Church Commissioners, on the application of the Chapter of the cathedral, to decide the matter.
- (2) A decision made by the Church Commissioners under this section is final.
- (3) A decision made by the Church Commissioners under this section must be set out in an instrument made under their seal.

## **24 Investment powers, etc.**

- (1) The Chapter of a cathedral may, in respect of money which forms part of the permanent endowment of the cathedral or is otherwise vested in the Chapter—
  - (a) invest it in the acquisition of land;
  - (b) invest it in an investment fund or deposit fund constituted under the Church Funds Investment Measure 1958;
  - (c) invest it in any investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (as restricted by sections 4 and 5 of that Act);
  - (d) use it for the improvement or development of property vested in the Chapter.
- (2) The Chapter may not exercise the power under subsection (1)(a) unless it has obtained the consent of the Church Commissioners.
- (3) The Chapter may not exercise the power under subsection (1)(d) to use money forming part of the endowment for the improvement or development of property which does not itself form part of the endowment.
- (4) The Chapter may not exercise the power under subsection (1)(d) to use money forming part of the endowment to improve or develop the cathedral church building.
- (5) The Chapter may not use the power under subsection (1)(d) to use money forming part of the endowment to repair property unless it—
  - (a) is satisfied that an emergency has arisen which justifies using the money to repair the cathedral church building, and
  - (b) has obtained the consent of the Church Commissioners before spending the money.
- (6) If the Chapter spends money in reliance on subsection (5), it must replace it within such period and in such manner as it agrees with the Church Commissioners.

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- (7) The Chapter of a cathedral may not exercise the power under regulation 4 of the Charities (Total Return) Regulations 2013 (which enables borrowing of up to 10% of permanent endowment) unless it has obtained the consent of the Church Commissioners.
- (8) Despite the repeal by section 51 of this Measure of section 17A of, and Schedule A1 to, the Cathedrals Measure 1999 (total return investment), any resolution in force under that section immediately before the commencement of the repeal is to continue in force as if it had been made under section 104A(2) of the Charities Act 2011.
- (9) “Money” includes stocks, shares, annuities and other securities.

## **25 Proceeds of disposal forming part of endowment**

- (1) Where property which forms part of the permanent endowment of a cathedral is disposed of, the proceeds (including any money received by way of loan on a mortgage or charge on land or premium on the grant of a lease or tenancy) are to be treated as part of the permanent endowment of the cathedral.
- (2) This section does not apply to property which is inalienable by virtue of section 20(1).

## **26 Allocation of housing**

The Chapter of a cathedral may allocate a house vested in the Chapter for the use of a person holding office in connection with the cathedral as a residence from which to perform the duties of the office.

## **27 Inspection of cathedral property**

- (1) The Chapter of each cathedral must continue to arrange, during each five-year period, for an architect or surveyor—
  - (a) to carry out an inspection of all property (other than the cathedral church building) which the Chapter is liable to repair and maintain, and
  - (b) to make a written report to the Chapter on any works which the architect or surveyor considers will need to be carried out in relation to that property and on the urgency with which he or she thinks that they should be carried out.
- (2) In the case of property within the precinct of the cathedral, each report under subsection (1)(b) must be made in consultation with the cathedral archaeologist.
- (3) The Chapter must send a copy of each report under subsection (1)(b) to—
  - (a) the fabric advisory committee of the cathedral,
  - (b) the Cathedrals Fabric Commission for England, and
  - (c) the Church Commissioners.
- (4) The reference in subsection (1) to the five-year periods, in relation to a cathedral, is a reference to the periods of five years provided for under section 20(1) of the Cathedrals Measure 1999 (beginning with the original appointment date under that Measure).
- (5) “Cathedral archaeologist” has the meaning given in section 32(1) of the Care of Cathedrals Measure 2011; but in a case where, by virtue of section 23(2) of that Measure, there is no cathedral archaeologist, subsection (2) above is to be ignored.

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- (6) “Precinct”, in relation to a cathedral, means the precinct for the time being indicated on the plan required for that cathedral under section 25(1) of the Care of Cathedrals Measure 2011.

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**Changes and effects yet to be applied to the whole Measure associated Parts and Chapters:**

Whole provisions yet to be inserted into this Measure (including any effects on those provisions):

- s. 24(7A) inserted by [2022 c. 6 Sch. 2 para. 20](#)