



Water Resources Act 1963

1963 CHAPTER 38

PART X

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

132 Ecclesiastical property

- (1) The provisions of this subsection shall have effect with respect to licences under this Act and with respect to applications for such licences, that is to say—
- (a) an application for such a licence, where the relevant land is land belonging to a benefice which is for the time being vacant, may be made by the Church Commissioners;
 - (b) where the relevant land belongs to a benefice, any such licence shall provide that (notwithstanding anything in section 31(4) or section 37(1) of this Act) whoever is for the time being the incumbent of the benefice shall be the holder of the licence, and, where the licence so provides, section 30(4) of this Act shall not apply;
 - (c) where the last preceding paragraph, applies, any reference in Part IV of this Act to the applicant for a licence shall, in relation to any time when the benefice in question is vacant, be construed as a reference to the Church Commissioners, and, in relation to any time when there is an incumbent of the benefice, shall be construed as a reference to that incumbent;
 - (d) where a licence includes such a provision as is mentioned in paragraph (b) of this subsection, any reference in this Act, or in any charging scheme or agreement made thereunder, to the holder of the licence shall, in relation to any time when the benefice in question is vacant, be construed as a reference to the Church Commissioners;
 - (e) for the purposes of sections 33 and 35 of this Act, water abstracted by a former incumbent of a benefice shall be treated as having been abstracted by the person who is for the time being the incumbent thereof, or, if the benefice is vacant, by the Church Commissioners.
- (2) Where the fee simple in any ecclesiastical property is in abeyance, it shall, for the purposes of (the exercise of any powers of compulsory acquisition conferred by or

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under this Act, be treated as being vested in the Church Commissioners, and any notice to treat shall be served accordingly.

- (3) Any sums agreed upon or awarded for the acquisition, in the exercise of any such powers, of the fee simple in land which is ecclesiastical property, or to be paid by way of compensation for damage sustained by reason of severance or injury affecting such land (being severance or injury arising from an acquisition in the exercise of any such powers), shall, instead of being paid as provided by the Lands Clauses Acts, be paid to the Church Commissioners.
- (4) Any compensation falling to be paid under this Act in respect of damage to land which is ecclesiastical property shall, to the extent to which it is payable to the owner of the fee simple in the land, be paid (where the fee simple is vested in any person other than the Church Commissioners) to them, instead of to that person; and any compensation falling to be paid under this Act in respect of depreciation of the value of the fee simple in land which is ecclesiastical property shall (where the fee simple is vested in a person other than the Church Commissioners) be paid to them instead of to the person in whom the fee simple is vested.
- (5) Any sums paid under subsection (3) or subsection (4) of this section to the Church Commissioners with reference to any land shall, if the land is not consecrated, be applied by them for the purposes for which the proceeds of a sale by agreement of the fee simple in the land would be applicable under any enactment or Measure authorising such a sale or (disposing of the proceeds of such a sale, and, if the land is consecrated, be applied by them in such manner as they may determine.
- (6) Where in pursuance of the provisions of Part V of this Act as modified by subsection (1)(d) of this section, or in pursuance of a charging scheme or agreement as so modified, the Church Commissioners are required to pay any fee or other charge in respect of a licence, then if any moneys then are or subsequently become payable by the Commissioners to the incumbent of the benefice in question, the Commissioners shall be entitled to retain out of those moneys an amount not exceeding the amount of that charge.
- (7) Where under any provision of this Act a document is required to be served on an owner of land, and the land is ecclesiastical property, a copy of the document shall be served on the Church Commissioners:

Provided that (without prejudice to subsection (2) of this section) this subsection shall not apply where the requirement is imposed by the Acquisition of Land (Authorisation Procedure) Act 1946 as applied by any provision of this Act.

- (8) In this section " benefice " means an ecclesiastical benefice of the Church of England, " ecclesiastical property " means land belonging to a benefice, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese of the Church of England or the site of a church so subject, or being or forming part of a burial ground so subject, and " the relevant land ", in relation to a licence under this Act or an application for such a licence, means the land on which water abstracted in pursuance of the licence is to be, or is proposed to be, used, or, in the case of a licence under section 36 of this Act or an application for such a licence, the land on which any part of the impounding works is to be, or is proposed to be, constructed or (in relation to an alteration of impounding works) the land on which any part of those works is situated or is to be, or is proposed to be, situated.