

GENERAL SYNOD

DRAFT CARE OF CATHEDRALS (AMENDMENT) MEASURE

**Supplementary report of the Steering Committee of
Members in Charge**

1. In paragraphs 5 and 36 of the Steering Committee's report (GS 1429Z) on the Final Drafting of the draft Care of Cathedrals (Amendment) Measure ("the Measure"), the Committee explained that it had consulted, among others, staff of the Department of Culture, Media and Sport ("DCMS"), English Heritage, the Royal Institute of British Architects ("RIBA") and the Royal Institution of Chartered Surveyors ("RICS") about this final stage of its work on the Measure. The results were not available at the time when that GS 1429Z had to be finalised for circulation to Synod members, and the Committee undertook to make a brief supplementary report available to members at the February 2003 Group of Sessions with information about the outcome of the consultation. Paragraphs 3 to 11 below fulfil that undertaking.
2. In addition, on the basis of advice from Standing Counsel following the normal consultations with Counsel to the Ecclesiastical Committee, the Committee has decided to make two of the drafting amendments to the Measure listed in paragraph 12 in a slightly modified form, and to make five other minor drafting amendments. These are set out in paragraphs 12-15 below.

FURTHER RESULTS OF CONSULTATION

3. Staff of the Department of Culture, Media and Sport and English Heritage have made no formal comments, and the Committee has no reason to believe that they have any concerns. The RIBA has confirmed that it is content with the proposals and in particular with those regarding appointments of members of the Cathedrals Fabric Commission for England set out in paragraphs 32-35 of GS 1429Z.

4. The RICS raised some initial concerns, but following further discussion with staff is now content. Their initial points, and the discussion which then took place in relation to them, are summarised in paragraphs 5-11 below.
5. The RICS initially voiced concerns about the proposed amendment to section 6(1)(a)(i) of the Care of Cathedrals Measure 1990 ("the 1990 Measure"), which deals with cases where applications for approval under the 1990 Measure must be made to the Cathedrals Fabric Commission for England ("the Cathedrals Fabric Commission") rather than to the fabric advisory committee of the cathedral concerned. These concerns were essentially similar to those raised by the Cathedral Architects Association and also voiced in the debates at the November 2002 Group of Sessions. They relate to provisions which appeared in the draft Measure as introduced into the Synod, and the Committee's detailed discussion of the position as set out in paragraphs 15-19 of GS 1429Z was explained to the RICS.
6. In particular, staff were able to give the staff of the RICS the assurance they sought that the amendment to section 6(1)(a)(i) did not change the legal effect of the 1990 Measure, and in particular that the position under section 2 of the 1990 Measure would remain as at present. Thus, as now, works to the cathedral and certain other buildings would not need approval under the Measure unless they would materially affect the character of the building, the cathedral's immediate setting or archaeological remains . Only if the works fell within one of those tests would section 6(1)(a)(i) come into play, and the effect of section 6(1)(a)(i) would again remain as at present, namely that if the works would permanently alter the fabric the application to approve them should be made to the CFCE.
7. It has also been made clear to the RICS, that the CFCE has agreed to provide practical guidance on the working of these provisions as suggested in paragraph 19 of GS 1429Z, and the Committee welcomes this.
8. The second set of issues raised by the RICS was (a) that the draft Measure did not specifically use the term "Chartered Building Surveyor" in defining what qualified professional persons other than qualified architects may be appointed as an "architect or surveyor of the fabric" of a cathedral; and (b) that it would in any

case be preferable for the Measure to refer to an "Accredited Chartered Surveyor" or "Accredited Chartered Surveyor (Building Surveyor Discipline)". Both these points of course relate to the work of the Revision Committee rather than to any new provisions introduced at Final Drafting. In connection with (b), the RICS pointed out that many of its students seeking accreditation cover building surveying disciplines as part of that process but would not necessarily be entitled to use the designation "Chartered Building Surveyor", as they might belong to another faculty of the surveyors' disciplines.

9. However, as regards (a), staff were able to explain to the RICS that the Cathedrals Measure 1999 ("the 1999 Measure") contains provisions linking in with those in the 1990 Measure. These, like the 1990 Measure, are amended by the present draft Measure, and the amended version would make clear that a person appointed as an architect or surveyor of the fabric of a cathedral must either be registered under the Architects Registration Act 1997 or be a member of the RICS qualified as a chartered building surveyor.
10. As regards (b), it was pointed out to the RICS that it was perhaps unlikely that a surveyor with the competence, experience and other qualities necessary to fulfil the office would come from a surveying discipline other than that of a chartered building surveyor. Indeed, the 1999 Measure already requires a person who is appointed to carry out inspections of cathedral property other than the cathedral church and ancillary buildings to be either an architect or a chartered building surveyor. (The same is of course true of a "qualified person" appointed to carry out inspections under the Inspections of Churches Measure 1955 of non-cathedral churches). The Committee also understands that a surveyor who was initially chartered in another faculty (such as a minerals surveyor) but who decides to change his or her specialisation to the fields covered by building surveyors would not in any way be debarred from qualifying as a Chartered Building Surveyor. On that basis, the Committee does not think it would be appropriate to make any change in the relevant provisions, and the RICS has accepted this.
11. The RICS's third initial point was on paragraph 34 of GS 1429Z, regarding the appointment of two members of the Cathedrals Fabric Commission under paragraph 3(d) of Schedule 1 to the 1990 Measure. The Committee's proposal, explained more fully in GS

1429Z, is that both the members appointed under that heading must be persons holding office as cathedral architects or surveyors of the fabric, with one being appointed by the Archbishops after consultation with the President of the RIBA and the other appointed by the Archbishops after consultation with the Presidents of the RIBA and the RICS. The RICS initially feared that the provision for joint consultation would give the RIBA the power of veto over any suggestion by the RICS. However, the RICS has been reassured that this is not the case. The intention is that collaboration between the two bodies would be encouraged in practice, but that even if they took different views, the decision will always lie, as it does now, with the Archbishops. The RICS is content with this.

DRAFTING AMENDMENTS

12. As explained in paragraph 2 above, on the basis of advice from Standing Counsel following the normal consultations with Counsel to the Ecclesiastical Committee, the Committee has decided to make two of the drafting amendments to the Measure listed in paragraph 12 of GS 1429Z in a slightly modified form, and to make five other minor drafting amendments. In each case, as required by S.O. 59(g), they affect only the wording of the Measure and do not affect its substance.
13. These amendments do not appear in the version of the Measure circulated to the Synod (GS 1429B), but do appear in the text of the 1990 Measure showing the amendments which the present draft Measure would make which will be available from the Information Desk.
14. The two drafting amendments which the Committee has decided to make in a modified form are as follows:-

Item (d) (page 4 of GS 1429Z) – Clause 5

- (d) In clause 5(1)(a) omit "(a)" in the words "sub-paragraph (a) (i)"; omit the brackets encircling "(including any works of repair or maintenance)" and insert commas instead; and omit "any".

Note: The reason for this item in its original form is given in paragraph 18 of GS 1429Z. As modified, it now also makes a technical correction to a cross-reference.

Item (o) (page 7 of GS 1429Z) – Schedule 1

After paragraph 1 insert -

"2. In paragraph 2 the words "for Culture, Media and Sport" and the words "and provosts" shall be omitted."

and renumber the paragraphs in Schedule 1.

Note: In addition to the reason for the amendment in its original form, as set out on page 7 of GS 1429Z, it now also includes a change of wording identical to, and for the same purpose as, item (p) on the same page.

15. The Committee's new drafting amendments are as follows

Clause 1

Before the existing paragraph (a) insert:-

"(a) For the words "section 5" there shall be substituted the words "sections 5 and 6"

and reletter the existing paragraphs.

Note: This adds a cross-reference to section 6 of the 1990 Measure, because paragraph (2C) of the amended section 6 would deal with certain cases where no approval is required under the 1990 Measure.

Clause 5

In clause 5(1)(b) omit "(a)" in the words "sub-paragraph (a) (iv)".

Note: This makes a technical correction to a cross-reference.

Clause 6

In the new clause 6A(4)(b) after the words "or other disposal" insert the words "(other than a loan)".

Note: For clarification, to state expressly what is already the effect of the difference in wording between the opening words of this paragraph and the opening words of clause 6A(4)(a).

Clause 7

In clause 7(2), in the new section 7(3)(c), for the words "those bodies" substitute the words "any body".

Note: A stylistic amendment.

Clause 14

In the new section 14(4) before the words "date referred to" insert the word "first".

Note: For clarification, to make clear that paragraph (4) of the new section 14 applies to a cathedral architect or surveyor of the fabric appointed after the new section comes into force.

On behalf of the Committee

**Janet Atkinson
Chairman**

24th February 2003