

GENERAL SYNOD

**DRAFT CHURCH OF ENGLAND (MISCELLANEOUS
PROVISIONS) MEASURE**

Explanatory Memorandum

- 1 The draft Measure is introduced on the instructions of the Business Committee.
- 2 This Measure is the eighth in a series of Miscellaneous Provisions Measures dealing with uncontroversial matters and certain other relatively minor matters that would not ordinarily merit free-standing legislation.
- 3 Members of Synod are asked to note that at the Revision Committee stage it may be desired to include provisions dealing with amendments to the role of the Privy Council in approving pastoral and redundancy schemes of the Commissioners, under the process set out in the Pastoral Measure 1983. The Privy Council suggested to the Review of the Dioceses and Pastoral Measures that its role in confirming such schemes could be withdrawn, thus achieving some administrative savings and speeding up the process, without prejudicing the appeal procedure to the Privy Council, which is to remain in place. The Dioceses & Pastoral Measure Review Group considered that the suggested change did not need to await the outcome of the Review and agreed that it could be included in the next Miscellaneous Provisions Measure. The Commissioners are currently considering the most appropriate way of dealing with the suggested changes.
- 4 It may also be desired to include in the draft Measure further legislative amendments relating to:
 - the Repair of Benefice Buildings Measure 1972, arising out of the recommendations of a review by staff from the Commissioners and the Ministry Division of the Archbishops' Council;

- the submission of the accounts of diocesan stipends funds, pastoral funds and glebe income to the Archbishops' Council; and
- recommendations made in the Second Report of the Bridge Follow-Up Group in 'Review of the Synodical Government in the Church of England' (GS1412).

5 These issues are being actively considered by the bodies concerned. Decisions on whether to seek to include the changes in question will be made in time to put proposed amendments of the draft Measure (if appropriate) to the Revision Committee.

NOTES ON CLAUSES

6 Clause 1 and Schedule 1 to the Measure amend the Parsonages Measure 1938.

Paragraphs 2 and 12 of Schedule 1 clarify certain issues arising out of the changes to the 1938 Measure made by the Church of England (Miscellaneous Provisions) Measure 2000 ('the 2000 Measure'). They clarify, respectively, that the Commissioners' consent is not required for the demolition of a parsonage and that a 'connected person' includes an incumbent, a bishop and a member, officer, agent or employee of the PCC and of the DBF not just the close family of such a person.

Paragraphs 3 and 6 extend to a parsonage acquired other than under the 1938 Measure the application of the Parsonages Measure power to exchange property and to give a bishop's certificate, respectively.

Paragraphs 4 and 5 clarify the procedure under the changes to the 1938 Measure made by the 2000 Measure. Paragraph 4 indicates that the Commissioners will only consider a representation (against the proposed application and distribution of sale proceeds) made during the period specified in the prescribed form of notice. Paragraph 5 confirms that any failure to comply with the provisions of the Measure does not invalidate a transaction as against a third party acquiring the property in good faith for money or money's worth.

Paragraph 7 applies the provisions of section 12 of the 1938 Measure to a multi-parish benefice.

- 7 Clause 2(a) amends the requirement in the Church Commissioners Measure 1947 that either the Chairman or the Deputy Chairman of the Commissioners' Assets Committee must be present at any meeting of that Committee. The Assets Committee should be able to transact its business, despite the unavoidable absence of both the Chairman and Deputy Chairman. Clause 2(a) therefore provides that, should the Chairman and his or her deputy both be absent from any meeting of the Committee, the meeting may nevertheless proceed.
- 8 Clauses 2(b) and 2(c) amend, at the suggestion of the Treasury, the arrangements for the appointment of the Commissioners' auditors, which is currently made at the direction of the Treasury. It is proposed that the Commissioners' Audit Committee, with the approval of the Board of Governors, will instead appoint the Commissioners' auditors.
- 9 Clause 3 repeals the requirement in the Diocesan Stipends Funds Measure 1953 for each diocese to submit annually to the Commissioners copies of the audited capital and income accounts for the diocesan stipends fund.
- 10 Clause 4 amends the pension provisions for the First and Third Church Estates Commissioners, set out in the Church Property (Miscellaneous Provisions) Measure 1960. The current provisions were drafted nearly 30 years ago, and the opportunity is being taken to update them. The new provisions are backdated in order to apply to the First and Third Commissioners in office at 1 October 2002.
- 11 Clause 5 amends a drafting anomaly in the Repair of Benefice Buildings Measure 1972 that arises from an amendment made by the Care of Churches and Ecclesiastical Jurisdiction Measure 1991. It clarifies the period within which an incumbent can make representations against a diocese's proposals to remedy unauthorised alterations to the parsonage.
- 12 Clause 6 and Schedule 2 amend the Endowments & Glebe Measure 1976.

Paragraphs 2, 5 and 6 of Schedule 2 correct anomalies that arose from the amendments made by the 2000 Measure, some of which had the unintended effect of requiring the Commissioners' consent for more, rather than fewer, transactions. It brings the wording of the later parts of section 20 of the 1976 Measure into line with the requirement in section 20(1) for the Commissioners' consent to a transaction. Paragraph 2(d) amends an incorrect statutory reference made by the 2000 Measure. Paragraph 2(h) confirms that any failure to comply with the provisions of the Measure does not invalidate a transaction as against a third party acquiring the property in good faith for money or money's worth. Paragraph 3 enables a glebe house to be occupied rent-free by anyone declared by the bishop to be engaged in the cure of souls within the diocese. Paragraph 4 repeals the requirement for a diocesan board of finance to send to the Commissioners each year copies of the diocesan glebe and minerals accounts.

13 Clause 7 and Schedule 3 amend the Pastoral Measure 1983.

Paragraph 2 of Schedule 2 requires the Commissioners to send to English Heritage and the Joint Committee of the National Amenity Societies a copy of any draft scheme containing a declaration of redundancy.

Paragraph 4 allows a bishop to amend by instrument a pastoral order setting up a plurality, provided the amendments are consequential on the termination of that plurality.

Paragraphs 5(a) and 5(b) will allow greater access and use of buildings vested in the Churches Conservation Trust ('the Trust') by (respectively) enabling the provision of new and improved services and facilities and empowering the Trust to acquire by gift a former church already disposed of under the 1983 Measure. Paragraph 3 enables the Advisory Board for Redundant Churches to give information and advice in respect of such a building. Paragraph 5(c) provides that the Trust, in place of the Commissioners, will submit its annual report and accounts to the Secretary of State. Paragraph 6 provides that the Commissioners may make a redundancy scheme to vest a building in the Trust within six months of the declaration of redundancy.

Paragraph 7(a) requires the Commissioners to send to English Heritage and the Joint Committee of the National Amenity Societies a copy of any draft redundancy scheme. Paragraph 7(b) removes the requirement for the Commissioners to place an advertisement in a local paper indicating that a redundancy scheme has been confirmed by the Privy Council. Paragraph 8 enables provision to be made by a redundancy scheme for demolition by a diocesan board of finance.

Paragraph 9 gives flexibility to the Commissioners in determining how the Church's one-third share of the Trust's costs are met, while enabling sufficient funds to be paid into the Redundant Churches Temporary Maintenance Account to ensure continued assistance to dioceses in maintaining redundant church buildings.

Paragraph 10 enables an automatic vesting in the incumbent of land appropriated by a scheme to parsonage use.

Paragraphs 11 and 12 enable the Commissioners to acquire, and to pass to the Trust, rights of access or other easements to a former church.

Paragraph 13 repeals the requirement for a diocesan board of finance to submit annually to the Commissioners a copy of the diocesan pastoral account.

Paragraph 14 extends the circumstances in which money from the Redundant Churches Temporary Maintenance Account may be used by a diocesan board of finance, to include the time between the making and the confirmation of a redundancy scheme.

Paragraph 15 requires diocesan pastoral committees, boards of finance and redundant churches uses committees to provide information, where requested by the Commissioners, and to have regard to advice given by the Commissioners.

Paragraph 16 defines, for the purposes of the Measure, 'English Heritage' and 'National Amenity Societies'.

Paragraphs 17(a) and 17(c) clarify that councils (whether team, group, district, joint or parochial) set up in a scheme or by bishop's instrument cannot last longer than 5 years.

Paragraph 17(b) will allow the diocesan board of finance to apply all or part of the proceeds of sale of any property it acquires under a scheme or order to the provision, restoration, improvement or repair of a house for anyone declared by the bishop to be engaged in the cure of souls within the diocese.

14 Clause 8 deals with citation, commencement and extent.

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