

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 ninth in a series of Miscellaneous Provisions Measures dealing with uncontroversial matters that do not merit free-standing legislation. It is the second such draft Measure to be introduced into Synod in this quinquennium. As items had already been identified for inclusion in a further Miscellaneous Provisions Measure, it was thought advisable to bring them to Synod now rather than to wait until the next quinquennium, when the Synod will need to deal with a substantial amount of important legislative business (including that required as a result of the Reviews of the Pastoral, Dioceses and related Measures and of Clergy Terms and Conditions of Service).

NOTES ON CLAUSES

3. Clause 1 and Schedule 1 to the Measure amend the Parsonages Measure 1938. Paragraph 2 of Schedule 1 extends the power to exchange a parsonage house to one that has ceased to be a parsonage as a result either of the acquisition of a new one under the 1938 Measure or the

designation of another parsonage on pastoral re-organisation. Paragraphs 3 and 6 replace current requirements for notices to be in forms prescribed by the Parsonages Measure Rules with requirements for written notice. Paragraph 4 amends the provisions relating to sale proceeds: the diocesan parsonages board ('the board'), which since changes made in 2000 receives the sale proceeds, will no longer be required to pass them to the Commissioners but will retain them for application. The board will be required to supply the Commissioners with such information relating to a transaction as the Commissioners may require. The Commissioners will be required to pass to the diocesan board of finance ('the DBF') the balances held on the parsonage accounts on the date when the changes under Paragraph 4 take effect. Paragraphs 5 and 7 are consequential repeals and Paragraph 8 is a correction.

4. Clause 2 and Schedule 2 to the Measure amend the Church Commissioners Measure 1947. Paragraph 2 of Schedule 2 alters the requirement for the Church Commissioners' seal to be affixed to deeds by permitting, as an alternative, two members of the Board of Governors to sign deeds on the Commissioners' behalf, so bringing the Commissioners' sealing powers into line with those of companies and charitable corporations. Paragraph 3 makes amendments to the Commissioners' constitution by deleting references to provosts, confirming that elected Commissioners do not themselves need to be members of General Synod and providing for the terms of office of elected and nominated Commissioners to run for a period of years ending in each case on 31 December (instead of 31 March), so as to correspond with the end of the Commissioners' financial year.

5. Clause 3 amends the Diocesan Stipends Funds Measure 1953 by requiring the bishop or other authorised person giving directions for the payment, out of the income of a diocesan stipends fund, of the stipends or other emoluments of clergy and others engaged in the cure of souls, to have regard to recommendations of the Central Stipends Authority with respect to the forms and levels of such stipends or other emoluments. (This amendment will take the place of one intended to be made by the Church of England (Miscellaneous Provisions) Measure 2000 but which has never been brought into force.)
6. Clause 4 amends the Church Property (Miscellaneous Provisions) Measure 1960 by permitting certain kinds of church property to be disposed of if no longer required for the purpose for which it was acquired.
7. Clause 5 amends the powers of the Church Commissioners in relation to Farnham Castle by allowing them to sell or otherwise dispose of it. Before exercising their power of disposal, the Commissioners are required to consider the implications of doing so and whether any restrictive covenants should be imposed; and, if they consider that the Castle may be prejudicially affected, they must first consult English Heritage. Any covenants imposed by the Commissioners will be enforceable as if they were restrictive covenants benefiting the Commissioners' adjoining land, which means they will be enforceable by the Commissioners in perpetuity.
8. Clause 6 amends the Ecclesiastical Jurisdiction Measure 1963 as regards the qualifications required for appointment as the chancellor of a diocese.

9. Clause 7 amends Article 4(2) of the Constitution of the General Synod (contained in Schedule 2 to the Synodical Government Measure 1969) so as to remove the current restrictions on the number of persons the Presidents may appoint to the panel of chairmen of the Synod.

Note: As explained in the Business Committee's Report 'Making Synod's Procedures More Effective' (GS 1542), if the General Synod indicates its support in principle for the introduction of electronic voting, amendments will be proposed to the draft Measure at Revision Committee stage to enable divisions of the whole Synod, as well as divisions by Houses, to be conducted otherwise than by an 'actual' division.

10. Clause 8 makes changes to the Repair of Benefice Buildings Measure 1972 that are consequential on the Patronage (Benefices) Measure 1986, by substituting a reference to 'registered patron' for each reference to 'patron'.
11. Clause 9 and Schedule 3 amend the Endowments and Glebe Measure 1976. Paragraphs 2, 3 and 5 of Schedule 3 make editorial amendments. Paragraph 4 provides for a subsidiary company of a DBF holding diocesan glebe land to have the powers and duties in relation to the land that the 1976 Measure gives to the DBF itself and allows such a subsidiary (with the DBF's consent) to acquire or appropriate land as diocesan glebe. Paragraph 6(a) makes a consequential amendment to the definition of 'diocesan glebe land'. Paragraph 6(b)(i) amends the definition of 'parsonage land' by giving the DBF (in place of the Church Commissioners) the responsibility for deciding that

benefice property should be retained for parsonage purposes. Paragraph 6(b)(ii) makes an amendment to the definition of ‘parsonage land’ that is consequential on changes made by the Church of England (Miscellaneous Provisions) Measure 2000.

12. Clause 10 and Schedule 4 amend the Pastoral Measure 1983. Paragraph 2 of Schedule 4 provides that an interested party may no longer waive the right to receive a copy of the draft scheme or order (the administration consequent on the current ability to waive the right being disproportionately burdensome). Paragraph 3 makes an amendment consequential on Paragraph 2. Paragraph 4 provides that bare land appropriated by a scheme for ecclesiastical purposes of a parish will vest automatically in the DBF on trust for the parochial church council, to avoid the cost of a consequent conveyancing transaction. Paragraph 5 removes the requirement for the bishop and the diocesan board of finance to consult the Church Commissioners about money proposed to be paid into the diocesan pastoral account.

13. Clause 11 and Schedule 5 make, with the agreement of the Government departments concerned, amendments to a large number of Acts of Parliament in order to replace references to the Church Commissioners with references to other Church bodies that are more appropriately placed to deal with the matters in question. The statutory provisions in question principally relate to requirements that notices be served on (currently) the Commissioners in relation to proposals to deal with benefice property or glebe. They derive from similar, earlier provisions designed to alert someone other than the incumbent (in case there was a vacancy in the benefice). Those earlier provisions predate

the availability of diocesan administration to deal with such matters, but they have been repeated in successive pieces of secular legislation without regard to subsequent changes in Church structures. Other amendments are made in order to differentiate property belonging to the Church of England from that in the ownership of the Church in Wales.

14. Clause 12 and Schedule 6 make consequential repeals.

15. Clause 13 deals with citation, commencement and extent.

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June 2004