

Draft Ecclesiastical Property Measure

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To amend the law relating to certain ecclesiastical land and personal property held for ecclesiastical purposes.

1 Amendment of Parochial Church Councils (Powers) Measure 1956

- (1) Section 6 of the Parochial Church Councils (Powers) Measure 1956 (acquisition and disposal of land etc.) is amended **in accordance with subsections (2) to (6)**.
- (2) In subsection (3), for “, charge or take any legal proceedings with respect to” substitute “or charge”. 5
- (3) After subsection (4) insert –
 - “(4A) The requirement for consent under subsection (1) or (3) does not apply if the consideration on the transaction in question is less than such amount as may be specified in, or determined in accordance with, an order made by the Archbishops’ Council.” 10
- (4) In subsection (5), omit “, **either from the Charity Commission or the Minister of Education or otherwise**”.
- (5) In subsection (6), for “one year” substitute “seven years”.
- (6) In subsection (7), at the end add “or, during a vacancy in a see, the guardian of the spiritualities”. 15
- (7) After that section insert –

“6A Orders under section 6: procedure

 - (1) An order under section 6 –
 - (a) may make different provision for different purposes, different cases or different areas; 20
 - (b) may, in connection with the determination of an amount, confer a discretion on a person of a specified description.
 - (2) An order under section 6 may not be made unless –
 - (a) a draft of the order has been laid before the General Synod and approved by it with or without amendment, and 25
 - (b) the draft so approved has been referred to the Archbishops’ Council.
 - (3) On referral of the draft, the Council must –
 - (a) if the draft was approved without amendment, make the order by applying its seal; 30
 - (b) if the draft was approved with amendment –
 - (i) make the order by applying its seal, or
 - (ii) withdraw the draft for further consideration.
 - (4) An order under section 6 comes into force when it is sealed by the Council. 35

- (5) If the Business Committee of the General Synod determines that a draft of an order under section 6 does not need to be debated by the General Synod, the draft is to be treated as approved for the purposes of this section unless a member of the General Synod gives notice in accordance with the standing orders that the member – 5
- (a) wishes the draft order to be debated, or
 - (b) wishes to move an amendment to it.
- (6) The Statutory Instruments Act 1946 applies to an order under section 6 as if – 10
- (a) this Measure were an Act, and
 - (b) the order were a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”
- 2 Amendment of Incumbents and Churchwardens (Trusts) Measure 1964**
- (1) The Incumbents and Churchwardens (Trusts) Measure 1964 is amended as follows. 15
- (2) In section 1 (interpretation), omit the definition of “Custodian trustee”.
- (3) In section 2 (property to which the Measure applies), in subsection (2), for paragraph (e) substitute –
- “(e) being a short lease (within the meaning of section 6 of the Parochial Church Councils (Powers) Measure 1956);” 20
- (4) In section 3 (vesting of property in diocesan authority), in subsection (2), omit “as custodian trustee”.
- (5) In that section, after subsection (5) insert –
- “(5A) Where any interest is vested in the diocesan authority under this section, **the managing trustees shall keep the authority** indemnified in respect of – 25
- (a) all liabilities subject to which the interest is vested or which may at any time affect the property;
 - (b) all rates, taxes, insurance premiums and other outgoings of whatever nature which may from time to time be payable in respect of the interest; 30
 - (c) all costs, charges and expenses incurred by the authority in relation to the acquisition or insurance of the interest or as trustee of the interest; and
 - (d) all costs, proceedings, claims and demands in respect of any of the matters mentioned in paragraphs (a) to (c) of this subsection.” 35
- (6) In section 5 (disposal of property vested in diocesan authority) –
- (a) for “whereof the diocesan authority is the custodian trustee” substitute “vested in the diocesan authority”, 40
 - (b) for “charge or take any legal proceedings in relation thereto” substitute “or charge the property”,
 - (c) omit “or, in the case of legal proceedings, of the agent of the diocesan authority authorised in that behalf”, **and**
 - (d) **omit “either from the Charity Commission or otherwise”.** 45

(7) After that section insert –

“5A Consent not required if consideration below specified amount

- (1) The requirement for consent under section 4 or 5 does not apply if the consideration on the transaction in question is less than such amount as may be specified in, or determined in accordance with, an order made by the Archbishops’ Council. 5
- (2) An order under this section –
- (a) may make different provision for different purposes, different cases or different areas;
- (b) may, in connection with the determination of an amount, confer a discretion on a person of a specified description. 10
- (3) An order under this section may not be made unless –
- (a) a draft of the order has been laid before the General Synod and approved by it with or without amendment, and
- (b) the draft so approved has been referred to the Archbishops’ Council. 15
- (4) On referral of the draft, the Council must –
- (a) if the draft was approved without amendment, make the order by applying its seal;
- (b) if the draft was approved with amendment – 20
- (i) make the order by applying its seal, or
- (ii) withdraw the draft for further consideration.
- (5) An order under this section comes into force when it is sealed by the Council.
- (6) If the Business Committee of the General Synod determines that a draft of an order under this section does not need to be debated by the General Synod, the draft is to be treated as approved for the purposes of this section unless a member of the General Synod gives notice in accordance with the standing orders that the member – 25
- (a) wishes the draft order to be debated, or 30
- (b) wishes to move an amendment to it.
- (7) The Statutory Instruments Act 1946 applies to an order under this section as if –
- (a) this Measure were an Act, and
- (b) the order were a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.” 35
- (8) In the Schedule (vesting of property in diocesan authority), in paragraph 2, omit “as custodian trustee”.

3 Citation, commencement and extent

- (1) This Measure may be cited as the Ecclesiastical Property Measure 20--. 40
- (2) This section comes into force on the day on which this Measure is passed and the other provisions of this Measure come into force on such day as the Archbishops of Canterbury and York may by order jointly appoint; and

different days may be appointed for different provisions or for different purposes.

- (3) This Measure extends to the whole of the provinces of Canterbury and York, except the Channel Islands and the Isle of Man, except that, if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, this Measure extends to the Isle of Man subject to such exceptions, adaptations or modifications as are specified in the Act of Tynwald or instrument. 5
- (4) The power to make an order under subsection (2) is exercisable by statutory instrument and the Statutory Instruments Act 1946 applies to any such order as if it had been made by a Minister of the Crown and as if this Measure were an Act. 10