

# Draft Church of England (Ecclesiastical Property) Measure

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

## 1 Amendment of Parochial Church Councils (Powers) Measure 1956

For section 6 of the Parochial Church Councils (Powers) Measure 1956 (4&5 Eliz. 2 No. 3) there is substituted the following section –

### “6 Supplementary provisions relating to certain property

- (1) Subject to the following provisions of this section, where a council holds or acquires any interest in land, except a short lease, or in personal property to be held on permanent trusts, the interest shall be vested in the diocesan authority subject to all trusts, debts and liabilities affecting the property. 5
- (2) All persons who are concerned with any property mentioned in subsection (1) of this section shall make or concur in making such transfers (if any) as are requisite for giving effect to the provisions of subsection (1). 10
- (3) A council shall not acquire or dispose of any interest in land or in personal property to be held on permanent trusts without the consent of the diocesan authority, unless – 15
  - (a) the interest consists of a short lease, or
  - (b) the consideration paid for the interest is less than an amount specified from time to time by an order made by the Archbishops’ Council. 20
- (4) Except as specified in subsections (1) and (2), nothing in this section affects the powers of the council in relation to the management, administration, or disposition of the property.
- (5) The reference in subsection (3) of this section to disposing of any interest includes a reference to charging the interest. 25
- (6) Where any property which is occupied by a member of the team in a team ministry is vested in a diocesan authority under subsection (1) of this section and the council proposes to alter or dispose of the property or any part of it, the council shall – 30
  - (a) keep that member informed of matters arising from the proposal;
  - (b) afford that member an opportunity to express views on the proposal; and
  - (c) have regard to those views before taking any such action.
- (7) Where any property is vested in the diocesan authority under subsection (1) of this section, the council shall keep the authority indemnified in respect of – 35
  - (a) all liabilities subject to which the property is vested in the authority 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 property;
- (c) all costs, charges and expenses incurred by the authority in relation to the acquisition or insurance of the property or as trustee of the property; and 5
- (d) all costs, proceedings, claims and demands in respect of any of the matters mentioned in paragraphs (a) to (c) of this subsection.
- (8) The consents required by subsection (3) of this section are additional to any other consents required by law. 10
- (9) In this section “short lease” means a lease for a term not exceeding 7 years and includes any tenancy from week to week, from month to month, from quarter to quarter, or from year to year.
- (10) Any question as to whether personal property is to be held on permanent trusts shall be determined for the purposes of this section by a person appointed by the bishop or, during a vacancy in a see, the guardian of the spiritualities. 15
- 2 Amendment of Incumbents and Churchwardens (Trusts) Measure 1964**
- (1) The Incumbents and Churchwardens (Trusts) Measure 1964 (No. 2) is amended as follows. 20
- (2) In section 1, the definition of “Custodian trustee” is omitted.
- (3) For section 2(2)(e), there is substituted the following paragraph—  
“(e) being a lease for a term not exceeding 7 years;”
- (4) After section 2(2)(f), there is added the following paragraph— 25  
“(g) in respect of which any consideration paid is less than an amount specified from time to time by an order made by the Archbishops’ Council.”;
- (5) In section 3(2), the words “as custodian trustee” are omitted.
- (6) After section 3(5), there is inserted the following subsection— 30  
“(5A) Where any interest is vested in the diocesan authority under this section the authority shall be indemnified in respect of—
- (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; 35
- (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 40
- (d) all costs, proceedings, claims and demands in respect of any of the matters mentioned in paragraphs (a) to (c) of this subsection.”

(7) For section 5, there is substituted the following section –

**“5 Provisions as to property vested in the diocesan authority**

No managing trustees of property vested in the diocesan authority under this Measure shall sell, lease, let, exchange or charge it or any interest in it without the consent of the diocesan authority, in addition to any other consents or orders required by law.”. 5

**3 Orders of the Archbishops’ Council**

(1) A draft of any order made by the Archbishops’ Council under section 6(3)(b) of the Parochial Church Councils (Powers) Measure 1956, as inserted by section 1 of this Measure or under section 2(2)(g) of the Incumbents and Churchwardens (Trusts) Measure 1964, as inserted by section 2(4) of this Measure, shall be laid before the General Synod and, if it is approved by the General Synod with or without amendment, the draft order so approved shall be referred to the Archbishops’ Council. 10

(2) Where a draft order is referred to the Archbishops’ Council under subsection (1) – 15

(a) if it has been approved by the General Synod without any amendment, the Council shall, by applying its seal, make the order;

(b) if it has been approved by the General Synod with amendments, the Council may either – 20

(i) by applying its seal make the order as amended, or

(ii) withdraw the order for further consideration in view of any amendment by the General Synod,

and the order shall not come into force until it has been sealed by the Council.

(3) Where the Business Committee of the General Synod determines that a draft order does not need to be debated by the General Synod, then unless – 25

(a) notice is given by a member of the General Synod in accordance with its standing orders that he or she wishes the draft order to be debated, or

(b) notice is given by any such member that he or she wishes to move an amendment to the draft order, 30

the draft order shall, for the purposes of subsections (1) and (2), be deemed to have been approved by the General Synod without amendment.

(4) The Statutory Instruments Act 1946 (c.36) applies to any order sealed by the Archbishops’ Council under subsection (2) as if it were a statutory instrument and were made when sealed by the Council, and as if this Measure were an Act providing that any such order were to be subject to annulment in pursuance of a resolution of either House of Parliament. 35

**4 Citation, commencement and extent**

(1) This Measure may be cited as the Church of England (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