

## GENERAL SYNOD

## CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) (NO. 2) MEASURE

## Explanatory Memorandum

**Background and summary**

1. The draft Measure is the thirteenth in a series of Miscellaneous Provisions Measures dealing with matters that do not merit separate, free-standing legislation.
2. The annex shows the text of enactments as proposed to be amended by the provisions of the draft Measure where the effect of an amendment is not readily apparent from the Measure itself. The note on a clause is marked \* where the textual effect of an amendment is shown in the annex.

**Notes on clauses*****Clause 1 Members of religious communities***

3. Clause 1 makes provision about members of religious communities.
4. Subsection (1) provides the necessary statutory basis for the provision that is to be made by paragraph 2 of Amending Canon No. 40 to permit a bishop to ordain a person who is a member of a religious community without that person needing to be provided with a parochial office.
5. Subsection (2) inserts a new section 2A in the Extra-Parochial Ministry Measure 1967 to enable the bishop of a diocese to grant a licence to an ordained member of a religious community to exercise ministry in the diocese in connection with the work of that community.
6. The provision made by the new section 2A is analogous to the existing provision in section 2 of the 1967 Measure that enables the bishop to license a clerk in holy orders to exercise ministry for the benefit of universities, colleges, schools, hospitals and other public or charitable institutions in the diocese. Accordingly, the grant of a licence under the new section 2A may not extend to solemnizing matrimony (which is a parochial duty). And, consistently with the existing provision in section 2 of the 1967 Measure, exercising ministry in accordance with a licence granted under section 2A is not subject to the consent or control of the incumbent of the parish where the ministry is exercised.
7. Subsection (3) amends the Church Representation Rules to remove the reference to a religious community's mother house. That is on the basis that not all religious communities (as they are to be defined by provision contained in Amending Canon No. 40) have a mother house.
8. Subsections (4) and (5) make amendments to other legislation that are consequential on the introduction, by provision contained in Amending Canon No. 40, of a canonical definition of "religious community".

## **Clause 2 National Clergy Register**

9. One of the recommendation made in *An Abuse of Faith*, the report of the Independent Peter Ball Review led by Dame Moira Gibb, was that “the Church should ... introduce arrangements for a national register of clergy with [permission to officiate]”.
10. Clause 2 provides a statutory framework for the creation of a national register. A register that encompassed only those clergy whose authority to exercise ministry took the form of permission to officiate – and therefore did not include, for example, clergy whose authority arose from being beneficed or licensed – would be of limited practical utility. Accordingly, the provision made by clause 2 covers all clergy who have authority to exercise ministry. It is also capable of being extended to cover lay people who have been granted authority to exercise ministry such as readers and licensed lay workers.
11. The detailed provision is to be made by regulations. This reflects the recently-adopted policy that detailed prescriptive provision should not be contained in primary legislation. Instead, the detailed provision as to the information to be provided for the purposes of the national register, and what is to be published, is to be contained in regulations made by the Archbishops’ Council with the approval of the General Synod (which can be amended by subsequent regulations made in the same way).
12. Subsection (1) enables the Archbishops’ Council to make regulations imposing a duty on the bishop of each diocese to provide the Council with specified information about each clerk in holy orders who has authority to exercise ministry in the diocese. In addition to bishops, the regulations may impose duties on other holders of ecclesiastical offices; these might, for example, include the deans of peculiars in relation to the clergy who are authorised to exercise ministry there, or the Archbishops in relation to provincial permissions to preach. The regulations may impose duties to provide specified information about lay people who have authority to exercise ministry.
13. The specified information provided in accordance with regulations made under subsection (1) will form the initial basis of the national register. Subsection (2) enables the regulations to impose continuing duties on bishops and others to provide updating information so that the information held by the Archbishops’ Council is kept up to date.
14. Subsection (3) sets out types of information which regulations may specify for the purposes of subsections (1) and (2). The specified information may include names and addresses, the form of authority to exercise ministry which a person has, the area, place or activity to which the authority relates, and any limitation of time to which the authority is subject.
15. Subsection (4) imposes a duty of the Archbishops’ Council to compile and maintain a register of the information provided to it under the regulations.
16. Subsection (5) imposes a duty on the Archbishops’ Council to publish information on the register and to make it available free of charge. The information that must be published will be prescribed in the regulations. It is expected that only the information that is necessary to enable a member of the public to discover whether a particular individual has authority to exercise ministry will be prescribed; not personal details such as addresses. It will be for the Council to decide the form in which the information is to be published, which may be electronic form.
17. Subsection (6) enables regulations to make different provision for different cases.

18. Subsections (7) to (11) set out the procedure for making regulations. The Archbishops' Council must lay a draft of the regulations before the General Synod for approval. The Synod may amend the draft regulations. If the Synod does not approve the draft, the regulations cannot be made. If the Synod approves the draft without amendment, the Archbishops' Council may proceed to make the regulations. If the Synod approves the draft regulations with amendment, the Archbishops' Council may either make the regulations in that form, or may withdraw the draft for further consideration. It will be open to the Business Committee to determine that draft regulations should be considered under the procedure for deemed approval. This is subject to the right of any member to require a debate or to move an amendment. Regulations take the form a statutory instrument which is subject to annulment by either House of Parliament.

### ***Clause 3 Fees: exemption, reduction or remission***

19. Clause 3 inserts a new subsection (3A) into section 86 of the Ecclesiastical Jurisdiction and Care of Churches Measure 1986.
20. Section 86 provides for the making of orders specifying the fees payable in relation to duties carried out by ecclesiastical judges and legal officers. As matters stand, there is currently no power for an ecclesiastical court to allow a party to proceedings an exemption from or reduction in court fees or to remit fees. That means, for example, that a person of limited means might be prevented from bringing a matter before the court. In the temporal courts there are statutory provisions which provide exemptions from, or reductions in, court fees for persons of limited means, or for courts to remit fees. That ensures that access to the courts is not dependent on an individual's financial circumstances.
21. The new subsection (3A) removes the lacuna in the ecclesiastical fees legislation by enabling the Fees Advisory Commission to include in a fees order made under section 86 provision as to exemptions from and reduction in fees and for the remission of fees.

### ***Clause 4 Cathedrals: power to vary or revoke approvals***

22. The Care of Cathedrals Measure 2011 establishes the statutory regime for approving proposals involving works affecting cathedrals. Approvals are granted by either the Cathedrals Fabric Commission for England or a cathedral's own fabric advisory committee, depending on the nature of the proposals.
23. The 2011 Measure currently contains no provision that enables either of those bodies to vary or revoke an approval it has granted. That means that if a cathedral Chapter wishes to make alterations to proposals that have been approved, the statutory approval process must be repeated in its entirety. Where alterations do not result in proposals that are substantially different from what has already been approved, restarting the statutory process is disproportionate. A similar issue arises in relation to conditions that have been attached to an approval. It sometimes becomes apparent that a condition is not capable of being met, at least in the terms in which the condition was originally imposed. But in the absence of any power to vary or revoke, neither of the approval bodies is able to amend or remove a condition once the approval to which it is attached has been issued.
24. The absence of a power or revocation could potentially have unfortunate consequences in the unlikely event that an approval under the Measure had been granted on an erroneous basis, for example because incorrect information had been provided to the approval body or because the statutory consultation process had not been properly carried out. In those unusual

circumstances, it should be possible for the approval body to revoke an approval it has granted.

25. The provisions inserted into the Care of Cathedrals Measure 2011 by subsections (1) and (2) of clause 4 enable an approval body to vary or revoke an approval it has granted, and to vary or revoke a condition which it has attached to an approval. See the new sections 8(4) and 9(7A).
26. A safeguard is provided by new sections 8(5) and 9(7B) which prevents the power to vary or revoke being used in a way that would result in the approval of a proposal that is substantially different from the proposal that was originally given approval. Where a substantially different proposal is brought forward, the statutory process will need to be restarted so that the necessary consultations can be carried out before the proposal is determined.
27. Subsections (3) to (8) make amendments to other provisions of the Care of Cathedrals Measure that are consequential on the amendments made by subsections (1) and (2).

***\*Clause 5 and the Schedule Disused burial grounds in cathedrals: approval for building, etc.***

28. The Disused Burial Grounds Act 1884 makes it unlawful to erect any building (whether permanent or temporary) on a burial ground which is no longer used for interments except for the purpose of enlarging a church, chapel, meeting house, or other place of worship. The 1884 Act applies to cathedral burial grounds as it applies to any other burial ground. It is therefore unlawful for any free-standing building to be built on a disused cathedral burial ground and such building cannot be approved under the Care of Cathedrals Measure 2011.
29. This has resulted in some cathedrals being unable to use land in their precincts in a way that best furthers the cathedral's mission.
30. The effect of the 1884 Act was modified in relation to parochial burial grounds by section 4 of the Care of Churches and Ecclesiastical Jurisdiction Measure 2015 which provides for the granting of a faculty to authorise building that would otherwise be prohibited by the Act provided certain conditions are met.
31. The prohibition contained in the 1884 Act can also be overcome by certain types of pastoral scheme (by virtue of section 44(4) of the Mission and Pastoral Measure 2011). But, in the case of cathedrals, a pastoral scheme is available only if the cathedral in question is a parish church (which most cathedrals are not).
32. Clause 5 accordingly inserts new provision in the Care of Cathedrals Measure 2011 which empowers the Cathedrals Fabric Commission for England (but not fabric advisory committees) to approve proposals for the erection of free-standing buildings on disused cathedral burial grounds.
33. The main provision is made by subsection (5) which inserts new subsections in section 9 of the Care of Cathedrals Measure. The new section 9(3A) enables the Cathedrals Fabric Commission to give approval to a proposal for the erection of a building on a disused burial ground in spite of the prohibition on building in the 1884 Act.
34. The exercise of the power to grant such an approval is subject to one of two alternative conditions that are set out in the new section 9(3B) and (3C) being met. The conditions – which are essentially the same as those which already apply to parochial burial grounds – are either:

- a that no interments have taken place in the land on which the building is to stand within the past 50 years, or
  - b if there have been any interments within the past 50 years, no personal representative or relative of any person who has been buried in the land during that period has objected, or any such objection has been withdrawn.
35. The other subsections of clause 5 make further amendments to the Care of Cathedrals Measure 2011 and the Care of Cathedrals Rules 2006 to take account of the new power of approval in relation to disused burial grounds .

***\*Clause 6 Inspection of Churches***

36. Clause 6 makes amendments to provisions in Part 3 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 that are concerned with the inspection of churches.
37. Subsections (1) to (6) amend section 45 of the 2018 Measure. Instead of the diocesan synod being required to make provision by scheme for the appointment of persons approved by the diocesan advisory committee to inspect churches in the diocese, the diocesan scheme is to provide for the parochial church council of each parish to appoint a person to inspect its church(es) and to make a report. See the new section 45(2A) inserted by subsection (2).
38. The PCC must consult the DAC before making the appointment and the PCC must be satisfied that the person to be appointed has the necessary qualifications and experience. A copy of the inspection report must be sent to the archdeacon, the PCC, the incumbent and the DAC secretary.
39. Equivalent provision is made in relation to non-parochial buildings that have been opted-in to the faculty jurisdiction.
40. In exercising their functions under the diocesan inspection scheme, PCCs, managers of opted-in buildings and DACs must have regard to any guidance issued by the Church Buildings Council. That guidance is expected to include advice about the qualifications and experience a person needs to carry out inspections (which will vary according to the church in question) and how to identify a suitable inspector. Existing statutory provisions relating to the qualifications of inspectors are accordingly omitted.

***Clause 7 Parochial registers***

41. Clause 7 amends the Parochial Registers and Records Measure 1978 so that it will be consistent with the amendments to be made to Canon F12 (Of the register book of services) by Amending Canon No. 41. Those changes will permit, but not require, a service register to be maintained in electronic form or any form approved by General Synod.
42. Subsection (1) amends interpretive provisions in section 25 of the 1978 Measure such that the definition of “register book” includes a register of services which is maintained in electronic or such other form as General Synod may approve. The amendments are necessary because the 1978 Measure has in view hard copy register books and provides for the care and custody of books in that form, which requirements are not germane to register books which are maintained electronically.
43. Subsections (2) and (3) make a consequential amendments.

### **Clause 8 Parochial records**

44. Clause 8 makes amendments to the definition of “records” and “records in parochial custody” in the Parochial Registers and Records Measure 1978. The existing definition of “records” in section 25 of the Measure has led to misunderstanding, with some diocesan record offices considering that framed photographs displayed in a church came within the definition of “records” and had to be taken down deposited in the record office if they were more than 100 years old.
45. The definition of “records” is amended so that it expressly does not include anything which is or has been fixed to the fabric of a church, for example a board displaying the names of incumbents, or a photograph or picture which is, or has been, displayed in a church.

### **Clause 9 Delegation to officers**

46. Subsection (1) amends section 7 of the Church Commissioners Measure 1947 so that the Commissioners’ standing orders may make provision for authorising an officer to act on the Commissioners’ behalf. This power, which is in addition to the existing power in section 6(4) enabling delegation to officers by the Board and committees, will enable the Commissioners to make provision in standing orders formally delegating Commissioners’ statutory functions to officers where the Commissioners consider such delegation to be appropriate.
47. Subsection (2) amends the Care of Cathedrals Measure 2011 to enable the Cathedrals Fabric Commission for England to delegate functions to its officers.

### **Clause 10 Diocesan Advisory Committee: limit on successive terms of office**

44. Clause 10 amends Schedule 2 to the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 to limit to two the number of successive terms of office that may be held by the chair or member of a diocesan advisory committee. (Filling a casual vacancy is not counted for this purpose.)
45. The chair and other members hold office for terms of office of six years. The new provisions inserted in Schedule 2 to the 2018 Measure will therefore prevent a person holding office continuously for more than 12 years.
46. The Church Buildings Council will have the power in a particular case to authorise the re-appointment of a person who has held two successive terms of office and who would otherwise not be eligible for re-appointment.
47. A person who has held two successive terms of office becomes eligible for re-appointment after not having held office for one complete term of six years.
48. The limitation to two successive terms of office will not apply to a term of office which began before the new provision comes into force.

### **Clause 11 The Constitution of the General Synod: replacement of outdated terms**

49. Clause 11 amends the Constitution of the General Synod so that the Chair and Vice-Chair of the House of Laity are no longer officially styled “Prolocutor and Pro-Prolocutor” and so that throughout the Constitution the term “chair” is substituted in place of “chairman”.

**Clause 12 Mission and Pastoral Measure 2011: correction of cross-reference**

50. Clause 12 corrects a cross-reference in section 109 of the Mission and Pastoral Measure 2011.

**Clause 13 Short title, commencement and extent**

51. Clause 13 provides for the short title of the Measure, for its commencement and for its extent.

The Legal Office  
Church House, Westminster

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## The text of enactments as amended

*This annex shows the text of enactments as proposed to be amended by the provisions of the draft Measure where the effect of an amendment is not readily apparent from the Measure itself.*

### Care of Cathedrals Measure 2011

*amendments made by clause 5 (Disused burial grounds in cathedrals: approval for building, etc.)*

#### 2 Approval required for alterations to cathedrals

- (1) Subject to subsection (2) and to sections 5 and 6 the Chapter of a cathedral shall not, unless it has been approved under this Measure, implement or consent to the implementation of any proposal—
- (a) for the carrying out of works, including works of repair or maintenance, on, above or below land the fee simple in which is vested in the corporate body, being works which would materially affect—
    - (i) the architectural, archaeological, artistic or historic character of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
    - (ii) the immediate setting of the cathedral church, or
    - (iii) any archaeological remains in or under the cathedral church or within its precinct, or
    - (iv) any human remains in or under the cathedral church or within its precinct, or
  - (b) for the sale, loan or other disposal of any object the property in which is vested in the corporate body or which is in the possession or custody of the corporate body or to whose possession or custody the corporate body is entitled, being an object of architectural, archaeological, artistic or historic interest, including any object to which section 7 applies, or
  - (c) for the carrying out of any work to any such object as is referred to in paragraph (b) which would materially affect the architectural, archaeological, artistic or historic character of the object, or
  - (d) for the permanent addition to the cathedral church of any object which would materially affect the architectural, archaeological, artistic or historic character of the cathedral church.
- (2) Subsection (1) shall not apply in relation to anything which—
- (a) is done by the Chapter in furtherance of its duties under the constitution and statutes of the cathedral church with respect to the ordering of services or otherwise in furtherance of the mission of the cathedral church,
  - (b) is of a temporary nature, and
  - (c) does not materially affect the fabric of the cathedral church.
- (2A) The Chapter of a cathedral shall not implement or consent to the implementation of a proposal for the erection of a building on a disused burial ground the fee simple in which is vested in the corporate body, unless the proposal has been approved under this Measure.
- (2B) The requirement under subsection (2A) for the approval of a proposal is in addition to any requirement under subsection (1) for the approval of the proposal.
- (3) Where a proposal has been implemented in contravention of this section, anything done in connection with that implementation may be approved under this Measure and, in that event, shall be deemed to have been done in compliance with this section.



## **5 Powers of fabric advisory committee in relation to application of section 2**

- (1) The fabric advisory committee shall have power—
- (a) if requested to do so by the Chapter, to determine whether, under section 2(1), an application for approval of a proposal by the Chapter is required to be made; and
  - (b) after consultation with the Chapter and subject to the agreement of the Commission, to determine that section 2 is not to apply to proposals of any class or description specified by the committee and to vary or revoke any determination made under this paragraph.

(1A) But the power under subsection (1)(b) may not be exercised in relation to proposals of the kind described in section 2(2A).

(2) If the Chapter wishes to have it determined whether a proposal is one to which section 2 does not apply by virtue of subsection (1)(b) the fabric advisory committee shall have power to determine that question.

(3) Where the Commission has made a determination under section 6(2) in relation to any matter, the fabric advisory committee shall not make a determination under subsection (1)(a) in relation to the same matter.

## **6 Body to which application for approval to be made**

- (1) Any application for approval for a proposal shall be made to the Commission where—
- (a) the proposal would involve—
    - (i) the carrying out of works, including works of repair or maintenance, which would permanently alter the fabric of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
    - (ii) the demolition of any part of the cathedral church or any such building, or
    - (iii) the disturbance or destruction of any archaeological or human remains in or under the cathedral church or within its precinct, or
    - (iv) the sale, loan or other disposal of or the carrying out of any work to any object for the time being designated under section 24(4) in relation to the cathedral church as being of outstanding architectural, archaeological, artistic or historic interest, or
  - (aa) the proposal would involve the erection of a building on a disused burial ground, or
  - (b) the Commission declares in writing that the proposal gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be determined by it;

and any application for approval for any other proposal other than an application under section 7(4)(a) shall be made to the fabric advisory committee.

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## **9 Applications for approval of Cathedrals Fabric Commission**

(1) Where any application is made by the Chapter of a cathedral for the approval of the Commission, the administrator shall—

- (a) display in the prescribed manner, and
- (b) send to the fabric advisory committee, English Heritage and the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section),

a notice in the prescribed form specifying the place where details of the proposal are available for inspection and stating that representations in writing with respect to the proposal may be sent to the secretary of the Commission before the end of the prescribed period; and, if the application relates to a proposal of a kind described in section 2(1)(a) or (2A), the administrator shall also send such a notice to the local planning authority.

(2) Following receipt of the notice referred to in subsection (1), the secretary of the fabric advisory committee shall inform the Commission in writing whether the committee has considered the proposal and, if so, of its views.

(3) After considering any representations made to it under this section, the Commission shall determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval.

(3A) In the case of a proposal of the kind described in section 2(2A), the Commission may, in spite of section 3 of the Disused Burial Grounds Act 1884 (which prohibits building on disused burial grounds except for the purpose of enlarging a place of worship), give its approval if either of the following conditions is met.

(3B) The first condition is that no interments have taken place in the land on which the building is to stand during the period of 50 years preceding the date of the application for approval of the proposal.

(3C) The second condition is that—

(a) no personal representative or relative of a person whose remains have been interred in the land during that period has objected to the proposal, or

(b) any such objection has been withdrawn.

(4) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv), the Commission may consult the Church Commissioners on any financial considerations (other than any which relate to the valuation of the object in question) which may be relevant to the proposal and on which the Commission considers it appropriate to receive the advice of the Church Commissioners and the Church Commissioners shall give such advice as they consider appropriate.

(5) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv), the Commission may request the Chapter of the cathedral to—

(a) consult the Council of the cathedral if it has not already done so; and

(b) inform the Commission of the Council's views on the proposal.

(6) If a meeting is arranged between the Commission and the Chapter of the cathedral to discuss the proposal, the administrator shall notify the secretary of the fabric advisory committee of the meeting and the committee's representatives shall be entitled to be present at the meeting.

(7) The secretary of the Commission shall send notice of the Commission's decision—

(a) to the Chapter of the cathedral,

(b) to the fabric advisory committee,

(c) to English Heritage,

(d) to the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section), and

(e) if the decision relates to a proposal of a kind described in section 2(1)(a) or (2A), to the local planning authority,

(f) if the Commission has consulted the Church Commissioners on the proposal under subsection (4), to the Church Commissioners,

and the administrator shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection.

(8) This section shall apply in relation to an application for approval in pursuance of section 2(3) as it applies in relation to an application for approval of a proposal.

## **Ecclesiastical Jurisdiction and Care of Churches Measure 2018**

*amendments made by clause 6 Inspection of Churches etc: appointment of inspector*

### **45 Scheme for inspection of church or building in the list**

(1) In the case of each diocese, the scheme established by the diocesan synod or the bishop under section 1 or 1B of the Inspection of Churches Measure 1955, providing for the inspection of every church or relevant building in the diocese at least once every five years and having effect immediately before the commencement of this section, continues to have effect.

(2) The scheme contains—

(a) provision establishing a fund by means of contributions from parochial, diocesan or other sources;

(b) provision for the payment out of that fund or otherwise of the cost of inspecting churches or relevant buildings in the diocese;

(c) provision for the appointment of ~~one or more qualified persons approved by the advisory committee~~ persons to inspect the churches or relevant buildings in the diocese and make a report on each one inspected;

~~(d) provision, in the case of each church inspected, for a copy of the report made under paragraph (c) to be sent to—~~

~~(i) the archdeacon of the archdeaconry in which the church is situated,~~

~~(ii) the PCC of the parish in which it is situated,~~

~~(iii) the incumbent of the benefice to which that parish belongs, and~~

~~(iv) the secretary of the advisory committee;~~

~~(e) provision, in the case of each relevant building inspected, for a copy of the report made under paragraph (c) to be sent to—~~

~~(i) the archdeacon of the archdeaconry in which the building is situated,~~

~~(ii) the secretary of the advisory committee, and~~

~~(iii) the Church Buildings Council;~~

(f) such other provisions as were included under section 1(2)(e) or 1B(1) of the Inspection of Churches Measure 1955 (power of diocesan synod or bishop to make provisions consistent with that Measure).

(2A) In relation to each church in the diocese, the provision specified in subsection (2)(c) must provide—

(a) for the PCC of the parish in which the church is situated to appoint a person to inspect the church and to make a report on the inspection,

(b) for the PCC not to make the appointment unless it—

(i) has consulted the advisory committee, and

(ii) is satisfied that the person to be appointed has the necessary qualifications and experience, and

(c) for a copy of the report on the inspection to be sent to—

(i) the archdeacon of the archdeaconry in which the church is situated,

(ii) the PCC,

(iii) the incumbent of the benefice to which the parish in which the church is situated belongs, and

(iv) the secretary of the advisory committee.

(2B) In relation to each relevant building in the diocese, the provision specified in subsection (2)(c) must provide—

(a) for the manager of the building to appoint a person to inspect the building and to make a report on the inspection,

(b) for the manager of the building not to make the appointment unless the manager—

(i) has consulted the advisory committee, and

(ii) is satisfied that the person to be appointed has the necessary qualifications and experience, and

(c) for a copy of the report on the inspection to be sent to—

(i) the archdeacon of the archdeaconry in which the building is situated,

(ii) the secretary of the advisory committee, and

(iii) the Church Buildings Council.

(3) The diocesan synod may at any time establish a further scheme to replace the previous scheme (regardless of whether that previous scheme was established by the diocesan synod or by the bishop); and a further scheme—

(a) must be for the purpose specified in subsection (1),

(b) must contain the provision specified in subsection ~~(2)(a) to (e)~~ (2)(a) to (c), and

(c) may contain such other provision not inconsistent with this section or sections 46 to 48 as the diocesan synod thinks fit.

(4) A scheme established under subsection (3) and passed at a meeting of the diocesan synod—

(a) must be signed by the chair of the meeting, and

(b) comes into operation on the date on which it is signed.

(4A) In exercising a function under the scheme referred to in this section, a PCC, the manager of a relevant building or an advisory committee must have regard to any guidance issued by the Church Buildings Council.

(5) “Relevant building” means a building included in the list other than a building within section 38(2)(b) (episcopal house of residence).

(5A) reference to the manager of a relevant building is—

(a) if the building is held on charitable trusts, a reference to the persons who have the general control and management of the administration of the charity;

(b) in any other case, a reference to the person who has the general control and management of the building.

~~(6) “Qualified person” means—~~

~~(a) a person registered under the Architects Act 1997, or~~

~~(b) a member of the Royal Institution of Chartered Surveyors who is qualified as a chartered building surveyor.~~