

Draft Pastoral (Amendment) Measure

CONTENTS

- 1 Amendment of section 56 of Pastoral Measure 1983
 - 2 Citation, commencement and extent
-

A DRAFT OF A MEASURE

To enable leases to be granted of parts of churches and of land belonging or annexed to a church and for connected purposes.

1 Amendment of section 56 of Pastoral Measure 1983

Section 56 of the Pastoral Measure 1983 shall be amended as follows –

(a) in subsection (2), there shall be inserted at the beginning the words “Subject to subsections (2A) and (2B),”; and

(b) after subsection (2) there shall be inserted the following subsections –

“(2A) Without prejudice to subsection (3)(a), on an application by the incumbent of the benefice comprising or including the parish in which the church is situated or, where the benefice is vacant, the bishop in the name and on behalf of the incumbent in the corporate capacity of the incumbent, the court may grant a faculty for a lease to be granted by the incumbent or, as the case may be, the bishop, of part of a church, provided that the court shall ensure that the premises remaining unlet, together with the premises let, under any lease or leases granted under this subsection, are, taken as a whole, used primarily as a place of worship.

(2B) On an application by any person referred to in subsection (2A) the court may, whether or not it grants a faculty under that subsection, grant a faculty for the lease of any land belonging to or annexed to a church.

(2C) The parochial church council for the parish in which the church or land is situated shall be a party to any lease granted under subsection (2A) or (2B) and, without prejudice to the rights and obligations of the lessor, shall have the same rights as the lessor to enforce any term or condition of the lease which may be binding on the lessee, including any rights to forfeit the lease or to distrain on the property of the lessee.

(2D) Any rent payable under any lease granted under subsection (2A) or (2B) shall be paid to the parochial church council.

(2E) Subject to subsections (2D) and (2F), any such lease shall be for such period, and may contain such conditions, as the court may determine and the lease or any conditions contained therein may be varied at any time by the court on application by any party to the lease.

(2F) Any such lease shall be deemed to contain the following conditions—

(a) in the case of a lease of part of a church granted under subsection (2A), the premises which are the subject of the lease shall not be used for purposes which are or in a way which is inconsistent with the use specified in that subsection, and 5

(b) in the case of a lease granted under subsection (2A) or (2B) no use shall be permitted for residential purposes except by a person who, as an employee of the lessor or otherwise, is required, as a condition of the employment or contract, to reside in the premises or part thereof, 10

and the lease shall be deemed to contain a covenant on the part of the lessee to perform the said conditions. 15

(2G) Where any lease is granted under subsection (2A) or (2B) —

(a) in the case of a lease of part of the building to trustees to be held on trust to be used for the purposes of a place of worship, the trustees shall not be entitled to exercise the right conferred by the Places of Worship (Enfranchisement) Act 1920 (10 & 11 Geo. 5 c. 56) to enlarge the leasehold interest by acquiring the freehold; 20

(b) in the case of a lease of part of the building consisting of a tenancy of premises occupied or to be occupied wholly or partly for the purposes of a business, the tenancy shall not be subject to any provision of Part II of the Landlord and Tenant Act 1954 (2 & 3 Eliz. 2 c. 56) under which the lease is continued until determined, or under which the tenant is entitled to apply to the court for the grant of a new tenancy, in accordance with the provisions of that Part; and 25 30

(c) in the case of a lease of part of the building consisting of a tenancy which would, but for this subsection, be a farm business tenancy to which the Agricultural Tenancies Act 1995 (1995 c. 8) applied, that Act shall not apply to the tenancy and, accordingly, the tenant shall not be entitled to exercise any of the rights conferred by Part I, II or III of that Act. 35

(2H) Without prejudice to section 84, where at any time, there is no parochial church council, the foregoing provisions of this section shall have effect and any lease granted under subsection (2A) or (2B) shall be construed as if, for any reference therein to the council, there were substituted a reference to the churchwardens. 40

(2I) Where a lease has been granted under subsection (2A) or (2B) and, at any time, the benefice is vacant, the bishop in the name and on behalf of the incumbent in the incumbent's corporate capacity may exercise the power conferred on the lessor by subsection (2E) to apply to the court for a variation of the lease or any conditions therein and the lease shall be construed as if any reference therein to the incumbent were a reference to the bishop acting in the name and on behalf of the incumbent as aforesaid. 45 50

(2J) Any question relating to the interpretation or enforcement of any term or condition of any lease granted under subsection (2A) or (2B) shall be determined by the court and section 11 of the Faculty Jurisdiction Measure 1964 (1964 No. 5) shall apply in relation to proceedings under subsection (2E) and this subsection as it applies to the proceedings mentioned in that section. 5

(2K) In this section, except subsection (2G)(b), "the court" means the consistory court of the diocese in which the building is situated or, in the case of the diocese of Canterbury, the commissary court thereof and section 14 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 1) shall not apply to the jurisdiction of the court conferred by the foregoing provisions of this section." 10

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2 Citation, commencement and extent

- (1) This Measure may be cited as the Pastoral (Amendment) Measure 200-.
- (2) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint, and different days may be appointed for different purposes.
- (3) This Measure shall extend to the whole of the Provinces of Canterbury and York except the Channel Islands and the Isle of Man except that— 20
 - (a) it may be applied to the Channel Islands as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either of them, in accordance with those Measures, and
 - (b) if an Act of Tynwald or an instrument made in pursuance of an Act of Tynwald so provides, it shall extend to the Isle of Man subject to such exceptions, adaptations or modifications as may be specified in the Act of Tynwald or instrument. 25

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