

GENERAL SYNOD

DRAFT DIOCESAN STIPENDS FUNDS (AMENDMENT) MEASURE

Explanatory Notes

The draft Diocesan Stipends Funds (Amendment) Measure makes provision to remove the geographical restriction on the application of moneys standing to the credit of the income account of a diocesan stipends fund.

Background

1. On 16 November 2021 the General Synod considered the paper **Generosity and Diocesan Finances** ([GS 2234](#)). That paper sets out a brief history of financial endowment in the Church of England, which has led to the present state of considerable disparity of wealth between dioceses. The following motion was carried—

“That this Synod request the Archbishops’ Council to develop legislative proposals, to be brought to a future Group of Sessions, to give dioceses more freedom to be generous with their historic wealth to other dioceses in the Church of England, and in this way enable a more equitable sharing of this wealth.”
2. The purpose of this draft Measure is to give effect to that motion through the option described in paragraph 21 of GS 2234 of removing the geographical restriction on the application of moneys standing to the credit of the income account of a diocesan stipends fund (“DSF”) in section 5(1)(a) of the Diocesan Funds Measure 1953 (“the 1953 Measure”). That option would allow a diocese to give money from its DSF income account to the DSF income account of another diocese.
3. The Business Committee having determined that it would be appropriate for this Measure to be deemed to have had first consideration under Standing Order 51A, the Clerk laid a draft of the Measure before Synod on 23 March 2022, by publishing the draft Measure and an explanatory note (GS 2055X) on the Synod website and sending a copy of each to every member of Synod. That note explained that if, no later than 5.30pm on 27 April 2022, at least 25 members gave notice to the Clerk that they wish the draft Measure to be debated, then the Business Committee would lay notice to that effect before Synod and arrange for first consideration of the Measure to take place at a group of sessions. In fact, 29 members gave notice by the due date and the Business Committee accordingly laid notice to that effect and arranged for first consideration of the Measure to take place at the group of sessions in July 2022.

Procedural stages

4. Standing Order 48(1) provides for Measures and Canons to be considered by the General Synod on the following successive stages—
 - First Consideration (see SOs 51 and 52)
 - Revision Committee (see SOs 54 to 57)
 - **Revision (see SOs 53 and 58 to 60)**
 - **Final Drafting (see SO 61)**
 - **Final Approval (see SO 64).**
5. This draft Measure was considered by the General Synod at the July 2022 group of sessions on the First Consideration Stage.
6. The Revision Committee Stage took place in November 2022. There were three submissions to the Revision Committee from members of Synod.
7. The next stages are the **Revision Stage, Final Drafting** and **Final Approval**, with each due to be taken in Full Synod at the February 2023 group of sessions. Members wishing to send proposals for amendment for Revision Stage must do so in writing by the deadline specified in the Agenda for that group of sessions.

The Measure

8. The Measure removes the geographical restriction on the application of DSF funds. It is purely permissive; there will be no obligation to use the power to give to the DSF of another diocese. In considering whether to use the power, a diocesan board of finance (“DBF”) will need to have regard to its own charitable objects and obligations under general charity law.
9. The Measure gives two ways for a DBF to make a payment. The first is by direct gift, with the giving DBF identifying one or more recipient dioceses and giving some of its DSF income to them. But that may be uncomfortable as it means the giving DBF has to decide which of several dioceses that are genuinely in need should receive what may be a relatively small gift. Therefore, the second way is for the giving DBF to give the funds to the Archbishops’ Council or, if another charity is to act as administrator of the funds, to that other charity to pass on to one or more recipient dioceses. The Archbishops’ Council would be accustomed to such a role, given its other work at national level, including the award and distribution of grants to dioceses from funds made available by the Church Commissioners. It would also be well-placed to identify the most needy recipients. However, other charities may also take on this role. Any charity which were to take on the role would need to be sure that doing so was within its own charitable purposes.

10. The administering charity will be able to decide, based on criteria that it will be free to formulate, which diocese(s) should receive the funds. It is expected that the administering charity will manage the reporting back of the allocation and end use of the funds for the giving DBF. The funds would be transferred first from the giving DBF to the administrator, and then from the administrator to the DSF income account of the recipient diocese, so that its DBF can use the funds for any of the purposes set out in section 5(1) of the 1953 Measure, with the provisions of section 5(2) to (4) applying in the usual way.

Notes on the clauses of the Measure

Clause 1 – Distribution of income to other dioceses

11. Clause 1 is the principal provision of the Measure and inserts a new section 5B into the 1953 Measure.

12. Subsection (1) of the new section 5B provides that the new provision will apply when there is money standing to the credit of the income account of the diocesan stipends fund of a diocese and the DBF is satisfied that that money does not need to be applied for a purpose specified in section 5(1) of the 1953 Measure. Those purposes are—

- a. Providing or augmenting the stipends or other emoluments of incumbents, assistant curates licensed under seal and other persons who are declared by the bishop to be engaged in the cure of souls within the diocese;
- b. Meeting expenses incurred in repairing and maintaining parsonage houses;
- c. Paying secondary Class 1 contributions under section 6 of the Social Security Contributions and Benefits Act 1992 in respect of ministers of the Church of England who are not employed under a contract of service; and
- d. Defraying the expenses incurred by the sequestrators of any benefice in the diocese in the discharge of their functions.

13. The new section 5B is permissive rather than mandatory; such money may, but need not, be applied in accordance with it. The effect is to add to the existing purposes for which the money can be used as set out in the list in section 5(1) of the 1953 Measure.

14. Subsection (2) of the new section 5B sets out the two options which a DBF has, either to transfer the money to the income account of the DSF of another diocese, or to transfer it to an account held for the purposes of the new section 5B by the Archbishops' Council or another charity. For the avoidance of doubt, it is provided that any such other charity can be one established before or after the passing of this Measure.

15. Subsection (3) of the new section 5B requires the charity to which the money is transferred to decide to which diocese(s) to make the transfer and then to make the transfer(s).

Clause 2 – Short title, commencement and extent

16. Clause 2(1) provides for the short title of the Measure.

17. Clause 2(2) provides for the Measure to come into force on the day on which it passed (namely, the day on which it receives Royal Assent).

18. Clause 2(3) provides for the extent of the Measure.

Amended text of the Diocesan Stipends Fund Measure 1953

19. For convenience, the Annex contains the full text of the Diocesan Stipends Fund Measure 1953 as it will appear if the changes proposed in this draft Measure are brought into effect. The new text to be inserted is shown in bold.

The Legal Office
Church House
Westminster

January 2023

Diocesan Stipends Fund Measure 1953 (as amended)

1 Capital and income accounts of diocesan stipends funds

The diocesan board of finance of each diocese shall keep two accounts for the diocesan stipends fund, namely, a capital account and income account.

2 Moneys to be allocated to capital and income accounts

The diocesan board of finance of each diocese shall—

- (a) allocate to the capital account of [the] diocesan stipends fund—
 - (i) . . .
 - (ii) any legacy not expressly directed or declared to be applicable as income and any donation or other contribution expressly directed or declared to be applicable as capital which may from time to time be received for the credit of or be allocated to that fund under the provisions of a pastoral scheme made under the Pastoral Measure 1983 or any other scheme having effect as if it were such a scheme; and
 - (iii) any other money or property received for the credit of that fund which the diocesan board of finance after consultation with the bishop may determine to be of a capital nature; and
 - (iv) any moneys standing to the credit of the income account of the fund which the diocesan board of finance decides to transfer to the capital account of that fund; and
- (b) allocate to the income account of the diocesan stipends fund—
 - (i) . . .
 - (ii) any legacy expressly directed or declared to be applicable as income and any donation or other contribution not expressly directed or declared to be applicable as capital which may from time to time be received for the credit of or be allocated to that fund under the provisions of a pastoral scheme made under the Pastoral Measure 1983 or any other scheme having effect as if it were such a scheme;
 - (iii) . . .
 - (iv) . . . and
 - (v) any other money or property received for the credit of that fund which the diocesan board of finance after consultation with the bishop may determine to be applicable as income.

[3 *Repealed*]

4 Application of moneys credited to capital accounts

- (1) Subject to any charges imposed on the capital of the diocesan stipends fund of a diocese by any enactment or any scheme or order made under any enactment, moneys standing to the credit of the capital account of that fund may, at the discretion of the

diocesan board of finance with the concurrence of the bishop, be applied for any or all of the following purposes—

- (a) the acquisition of any land to be held as diocesan glebe land of the diocese by the board or a management subsidiary within the meaning of the Church Property Measure 2018 or investment in any such subsidiary;
 - (aa) . . .
 - (b) the development or improvement of any such land and the safeguarding of the amenities thereof;
 - (ba) participation in any collective investment scheme operated for the purposes of this paragraph by the Commissioners;
 - (bb) investment in any investments fund or deposit fund constituted under the Church Funds Investment Measure 1958;
 - (bc) investment in any investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (as restricted by sections 4 and 5 of that Act);
 - (c) the discharge of any expense of a capital nature levied under any enactment and payable by the diocesan board of finance as the person for the time being entitled to the interest in any such land by reference to which the expense was levied;
 - (d) the discharge of any principal or interest owing in respect of any loan made in respect of any such land;
 - (dd) the provision or improvement of parsonage houses; and
 - (e) the discharge of any principal or interest owing in respect of any loan made to the board by the Commissioners under section 10(2) or 24 of the Church Property Measure 2018.
- (1A) The proceeds of, or the capital moneys arising from, a sale, exchange or other dealing with investments or deposits made by the diocesan board of finance under subsection (1) less the costs, charges and expenses directly attributable to the transaction in question shall be allocated to the capital account of the diocesan stipends fund.
- (1B) All dividends or other payments in the nature of income received by the diocesan board of finance in respect of the investment or deposit of any moneys standing to the credit of the capital account of the fund shall be allocated to the income account of the fund.
- (2) In this section “development”, in relation to a building, includes the division or demolition thereof and “diocesan glebe land” has the same meaning as in the Church Property Measure 2018.

5 Application of moneys credited to income accounts

- (1) Subject to any charges imposed on the income of the diocesan stipends fund of a diocese by any enactment or any scheme or order made thereunder, moneys standing to the credit of the income account of that fund shall be applied—
- (a) in providing or augmenting the stipends or other emoluments of incumbents, assistant curates licensed under seal and other persons who are declared by the

- bishop to be engaged in the cure of souls within the diocese;
- (aa) in meeting expenses incurred in repairing and maintaining parsonage houses;
and
- (ab) in paying secondary Class 1 contributions under section 6 of the Social Security Contributions and Benefits Act 1992 in respect of ministers of the Church of England who are not employed under a contract of service; and
- (b) in defraying the expenses incurred by the sequestrators of any benefice in the diocese in the discharge of their functions.
- (2) The said moneys shall be so applied in accordance with directions from time to time given, with the concurrence of the Diocesan Board of Finance, by the bishop or a person duly authorised for that purpose by him.
- (3) Before giving any directions under subsection (2) above with respect to the application of the said moneys in providing or augmenting the stipends or other emoluments of the persons mentioned in subsection (1) above, the bishop or the person so authorised shall have regard to any recommendations made by the Central Stipends Authority with respect to the forms and levels of the stipends and other emoluments of those persons.
- (4) Subject to subsection (3) above, the bishop or the person so authorised shall, in determining the directions to be given under subsection (2) above, have regard to any advice given by the Archbishops' Council with respect to the application of the said moneys.

5A Total return investment

- (1) Nothing in this Measure prevents or restricts the diocesan board of finance from making a resolution under section 104A of the Charities Act 2011 in relation to the capital account of the diocesan stipends fund.
- (2) Where the board makes a resolution under that section in relation to that account, the decisions which it may take about the allocation of the unapplied total return from the account (regardless of when it arose) are decisions as to its allocation between the capital account and the income account.
- (3) In their application to the capital account of a diocesan stipends fund, the regulations under section 104B of the Charities Act 2011 have effect with such modifications as are necessary in light of this section.

5B Distribution of income to other dioceses

- (1) Money standing to the credit of the income account of the diocesan stipends fund of a diocese, and which the diocesan board of finance is satisfied does not need to be applied for a purpose specified in section 5(1), may be applied in accordance with this section.**
- (2) The diocesan board of finance may transfer the money concerned—**
- (a) to the income account of the diocesan stipends fund or another diocese, or**
- (b) to the account held for the purposes of this section by the Archbishops' Council or by another charity (whether established before or after the passing**

of this Measure).

(3) Where money is transferred under subsection (2)(b), the charity, having decided to which diocese or dioceses to give the money, must—

(a) if it decides to give the money to one diocese only, transfer it to the income account of the diocesan stipends fund of that diocese;

(b) if it decides to give separate portion of the money to different dioceses, transfer each portion to the income account of the diocesan stipends fund of the diocese concerned.

[6 Repealed]

[7 Repealed]

8 Interpretation

(1) In this Measure the following expressions have the meanings hereby respectively assigned to them—

“the appointed day” means the first day of April next following the passing of this Measure.

“the Measure of 1944” means the Reorganisation Areas Measure 1944.

“the Measure of 1949” means the Pastoral Reorganisation Measure 1949. “the bishop” means the bishop for the time being of the diocese concerned.

“the diocesan board of finance” means the diocesan board of finance of the diocese concerned.

“parsonage house” has the same meaning as in the Church Property Measure 2018.

(2) In paragraph (c) of sub-section (1) of section seventeen of the Measure of 1944 and in sub-section (7) of section five and sub-section (4) of section twelve of the Measure of 1949 and in this Measure the expression “year” means a period of twelve months beginning on the first day of April in any year and ending on the thirty-first day of March in the year following.

9 Provisions as to diocesan boards of finance not regularly constituted

(1) Where in any diocese there is a board of finance which, though not duly constituted in accordance with the provisions of the Diocesan Boards of Finance Measure 1925, is recognised for the purpose of this Measure as being the diocesan board of finance, the provisions of this Measure shall apply in relation to that diocese as if the said board had been duly constituted.

(2) In this section the expression “recognised” means recognised by a certificate signed by the bishop and registered in the diocesan registry.

[10 Repealed]

11 Short title and commencement

(1) This Measure may be cited as the Diocesan Stipends Funds Measure 1953.

(2) ...