



# Care of Places of Worship Measure 1999

1999 No. 2

A Measure passed by the General Synod of the Church of England to make provision in relation to the care of certain buildings used for or in connection with worship; and for purposes connected therewith. [30th June 1999]

## **1 List of buildings affected by the Measure**

- (1) It shall be the duty of the Council for the Care of Churches (hereinafter referred to as “the Council”) to compile and maintain, in accordance with the following provisions of this Measure, a list specifying the buildings which are to be affected by this Measure.
- (2) Subject to subsection (5) below, any building falling within paragraphs (a) to (e) below shall, on application made in the prescribed manner, be eligible for inclusion in the list—
  - (a) a building which is subject to any peculiar jurisdiction and which is used for worship according to the rites and ceremonies of the Church of England;
  - (b) a building which is a chapel forming part of an episcopal house of residence;
  - (c) a building which is a chapel or other place of worship owned or leased by or held in trust for a religious community;
  - (d) a building (not being one falling within any of the foregoing paragraphs) which is part of a university, college, school, hospital, Inn of Court, almshouse or other public or charitable institution and of which the primary use is for worship according to the rites and ceremonies of the Church of England or for joint worship by members of the Church of England and other Churches;
  - (e) a building which is subject to a sharing agreement made on behalf of the Church of England in pursuance of the Sharing of Church Buildings Act 1969 and which is used for worship.
- (3) Where an application is or has been made for the inclusion in the list of any building, an application may also be made for the inclusion in the list of an adjoining building which is used wholly or mainly as a vestry or sacristy.
- (4) Where an application is or has been made for the inclusion in the list of a building which—

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(a) falls within paragraph (a) or (e) of subsection (2) above (peculiarities or shared churches), and

(b) is detached from any other building,

an application may also be made for the inclusion in the list of the curtilage of the building, of any monument within the curtilage or of any object or structure forming part of the land within the curtilage which is used wholly or mainly for purposes ancillary to the purposes for which the building is used, and references in the following provisions of this Measure to buildings included in the list shall be construed accordingly.

(5) A building—

(a) to which the Care of Cathedrals Measure 1990 applies, or

(b) which is subject to the faculty jurisdiction of a consistory court, or

(c) which falls within paragraph (d), (e), (f) or (g) of Article 4 of the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994,

shall not be eligible to be included in the list.

## **2 Supplementary provisions re the list**

(1) On receipt by the Council of an application made in the prescribed manner for the inclusion of a building in the list or the removal of a building from the list, the building shall be included in the list or removed from the list, as the case may be, unless the Council is satisfied that the application does not comply with the requirements of this Measure or any rules relating to the application.

(2) If, in respect of a building included in the list, the Council considers that—

(a) the building is no longer eligible for inclusion, or

(b) any order or direction of a court in connection with the court's faculty jurisdiction, or any undertaking given in connection with the application for inclusion, has not been complied with,

the Council may, after giving the relevant person or body an opportunity to show reason to the contrary, remove the building from the list.

(3) The removal of a building from the list under this section shall not affect the provisions of section 13 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 in its application to the building or anything done under that section before the removal.

(4) The provisions of Schedule 1 to this Measure shall have effect with respect to applications for the purposes of this Measure, to the matters to be mentioned in the list, to the notifications required in connection with the list and to the inspection of the list by members of the public.

## **3 Effect of inclusion in the list**

(1) The following provisions shall have effect with respect to buildings included in the list.

(2) The building and any object or structure fixed to it shall be subject to the faculty jurisdiction of the consistory court of the diocese in which the building is situated and the provisions of any Measure, rules or other instrument relating to the faculty jurisdiction (except section 7 of the Faculty Jurisdiction Measure 1964 and section 11(1) to (7) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991) shall apply in relation to the building and any such object or structure.

(3) In the case of a building falling within paragraph (b) of section 1(2) above (episcopal houses of residence), section 46(1) of the Ecclesiastical Jurisdiction Measure 1963 shall have effect as if the proviso were omitted.

(4) Except in the case of a building falling within paragraph (b) of section 1(2) above (episcopal houses of residence), the provisions of the Inspection of Churches Measure 1955 (other than sections 1A, 2(2) and (3), 3, 4 and 5) shall apply in relation to the building as if the building were a church:

Provided that, in the application of those provisions in relation to the building,—

(a) section 1(2)(d) shall have effect as if for the words from “parochial church council” to “that parish” there were substituted the words “Council for the Care of Churches,”;

(b) section 2 shall have effect as if—

(i) for subsection (1) there were substituted the following subsection—

“(1) Where the archdeacon of any archdeaconry finds that a church in his archdeaconry has not been inspected to his satisfaction by a qualified person for a period of at least five years, he shall notify the Council for the Care of Churches of that fact.”;

(ii) in subsection (2) for the words “notice was served” there were substituted the words “notification was made”;

(c) in the case of a building which is part of a prison, references to the archdeacon shall be construed as references to the Chaplain-General of Prisons.

(5) If a chapel forming part of Lambeth Palace is included in the list—

(a) the Vicar-General’s court of the province of Canterbury shall, for the purposes of subsection (2) above, exercise the faculty jurisdiction of the consistory court in relation to the chapel (the registrar of the province of Canterbury acting as registrar of the Vicar-General’s court) and references to a consistory court or to the registrar of a diocese in any Measure, rules or other instrument relating to the faculty jurisdiction shall be construed accordingly;

(b) the Council shall, in the application of any such Measure, rules or other instrument, discharge the functions of the Diocesan Advisory Committee.

#### **4 Amendment of Ecclesiastical Fees Measure 1986**

The Ecclesiastical Fees Measure 1986 shall have effect subject to the amendments specified in Schedule 2 to this Measure.

#### **5 Rules**

Rules made under section 26(1) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 may make provision for carrying into effect the provisions of this Measure and, accordingly, in that subsection after paragraph (d) there shall be inserted the words—

“(e) the Care of Places of Worship Measure 1999”.

## 6 Interpretation

(1) In this Measure—

“building” includes any structure or erection, and any part of a building as so defined, but does not include plant or machinery comprised in a building;

“Council for the Care of Churches” means the body so named at the passing of this Measure or any body subsequently exercising the functions of that body under a different name or with a different constitution;

“episcopal house of residence” has the same meaning as in section 3 of the Episcopal Endowments and Stipends Measure 1943;

“the list” means the list mentioned in section 1(1) above;

“monument” includes a tomb, gravestone or other memorial and any kerb or setting forming part thereof;

“prescribed” means prescribed by Schedule 1 to this Measure or by rules made under section 26(1) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991;

“relevant person or body” in relation to any building means the person or body entitled to make an application in respect of the building by virtue of paragraph 1 of Schedule 1 to this Measure.

(2) Any reference in this Measure to the consistory court of a diocese shall, in its application to the diocese of Canterbury, be construed as a reference to the commissary court thereof.

(3) For the purposes of this Measure, a place which is surrounded by or adjacent to one diocese and does not form part of that diocese shall be deemed to be situated within that diocese, and a place which is surrounded by or adjacent to two or more dioceses and does not form part of any of those dioceses shall be deemed to be situated within such one of them as the archbishop of the relevant province may direct.

## 7 Citation, commencement and extent

(1) This Measure may be cited as the Care of Places of Worship Measure 1999.

(2) This Measure shall come into operation on such date as the Archbishops of Canterbury and York may jointly appoint, and different dates may be appointed for different provisions.

(3) This Measure shall extend to the whole of the provinces of Canterbury and York except the Channel Islands and the Isle of Man and to any extra-provincial place in England, but 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.

## SCHEDULES

### SCHEDULE 1

Section 2(4).

#### PROVISIONS RELATING TO THE LIST

- 1 Subject to paragraph 2 below, an application in respect of any building may be made for the purposes of this Measure as follows—
  - (a) in the case of a building falling within paragraph (a), (c) or (d) of section 1(2) above (peculiars, religious communities, universities etc.),—
    - (i) if it is held on charitable trusts, by the charity trustees;
    - (ii) otherwise, by the person or body having the general control and management of the building;
  - (b) in the case of a building falling within paragraph (b) (episcopal houses of residence), by the bishop or archbishop concerned;
  - (c) in the case of a building falling within paragraph (e) (shared churches), by the person or body having the general control and management of the building.
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  - (1) In the case of a building falling within paragraph (b) of section 1(2) above (episcopal houses of residence), an application shall not be made without the consent of the Church Commissioners nor—
    - (a) in the case of Lambeth Palace or Old Palace Canterbury, during a vacancy in the office of the Archbishop of Canterbury;
    - (b) in the case of Bishopthorpe Palace, during a vacancy in the office of the Archbishop of York;
    - (c) in any other case, during a vacancy in the see in which the building is situated.
  - (2) In the case of a building falling within paragraph (c) (religious communities), an application shall not be made without the consent of the superior of the religious community concerned. The superior may consult the Visitor before deciding whether or not to consent.
  - (3) In the case of a building which is part of a prison, an application shall not be made without the consent of the Chaplain-General of Prisons.
  - (4) In the case of a building falling within paragraph (e) (shared churches), an application shall not be made unless the requirements of the relevant sharing agreement, or of any arrangements made under it, relating to consultation or consent in the management of the building have been complied with.
  - (5) In the case of a building falling within paragraph (a) or (d) (peculiars, universities etc.) an application shall not be made without the consent of the Visitor (if any).
  - (6) In the case of an application to which paragraph 1(a)(ii) above applies the application shall not be made without the consent—

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- (a) in the case of a building which is not subject to a tenancy, of the person who is for the time being the estate owner in respect of the fee simple in the building; or
- (b) in the case of a building which is subject to a tenancy—
  - (i) where the estate owner is the applicant, of the person who is for the time being entitled to the tenancy;
  - (ii) where that person is the applicant, of the estate owner;
  - (iii) otherwise, of both that person and the estate owner:

Provided that this paragraph shall not apply if the Council is satisfied that the estate owner or person entitled to the tenancy cannot be found after reasonable efforts to find him have been made or that it is impracticable to seek his consent.

3        In respect of each building included in the list, such details of the objects and structures fixed to it as shall be prescribed shall be contained in or attached to the list.

4        (1) The list shall, by appointment, be open to inspection by members of the public at the offices of the Council during normal office hours.

(2) Any person shall be entitled to be supplied with a copy of any entry or document relating to a building included in the list on payment of such reasonable charge as may be determined from time to time by the Council in respect of the costs incurred by it.

5        (1) The Council shall, at least once in every period of five years, send a copy of the list to—

- (a) the Secretary of State,
- (b) the Historic Buildings and Monuments Commission for England, and
- (c) the national amenity societies (within the meaning of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991),

and shall also send to each Diocesan Advisory Committee in whose area a building included in the list is situated a copy of those parts of the list which relate to that building.

(2) Where a building is included in or removed from the list or the entry relating to a building included in the list is altered, the Council shall inform the diocesan registrar concerned, the Diocesan Advisory Committee of the diocese in which the building is situated and each of the bodies mentioned in sub-paragraph (1)(a), (b) or (c) above accordingly.

(3) A Diocesan Advisory Committee, on receiving any document sent to it by the Council under this paragraph, shall send to each local planning authority in whose area a building mentioned in the document is situated a copy of those parts of the document which relate to that building.

6        In this Schedule—

“charity trustees” means the persons having the general control and management of the administration of the charity in question;

“local planning authority” in relation to any area means the body exercising the functions of a local planning authority under section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that area.

## SCHEDULE 2

Section 4.

### AMENDMENT OF ECCLESIASTICAL FEES MEASURE 1986

- 1 Section 6 of the Ecclesiastical Fees Measure 1986 shall be amended as follows.
- 2 After subsection (1) there shall be inserted the following subsection—
  - “(1A) The Fees Advisory Commission may also make recommendations as to the fees to be paid in respect of such functions performed by Diocesan Advisory Committees and archdeacons in connection with proceedings or proposed proceedings to which this subsection applies as are specified by the Commission to such persons as are so specified, and an order made under subsection (1) above may give effect to those recommendations.

This subsection applies to proceedings for obtaining a faculty in respect of any building (including any monument, curtilage, object or structure belonging to it) which is subject to the faculty jurisdiction of a consistory court by virtue of section 3 of the Care of Places of Worship Measure 1999, not being a building which is subject to a sharing agreement made on behalf of the Church of England in pursuance of the Sharing of Church Buildings Act 1969.”.
- 3 In subsections (4) and (5) for the words “Ecclesiastical Judges and Legal Officers (Fees) Order” in both places where they occur there shall be substituted the words “order made under subsection (1) above”.