



Repair of Benefice Buildings Measure 1972

1972 No. 2

Miscellaneous and General

20 Felling of trees.

- (1) Any trees included in the current list scheduled to the report of the diocesan surveyor under section 4(3) of this Measure in respect of a parsonage house shall not be felled, lopped or topped without the consent of the Board, and the timber growing . . . ^{F1} in any churchyard of a benefice shall not be felled without such consent:
Provided that this subsection shall not apply if the felling, lopping or topping is necessary to avoid immediate danger to the occupants of the parsonage house or [^{F2}any other] building or to the general public.
- (2) If any such trees are felled, lopped or topped in contravention of this section or any such timber is felled in contravention thereof, the Board may by notice require the incumbent or his personal representative to pay to the Board the amount of any resulting depreciation, as estimated by a diocesan surveyor, of the parsonage house or, as the case may be, the net value of the timber, or such part of that amount or value as the Board think fit, and, if the notice is not complied with, the Board may take proceedings for the enforcement thereof:
Provided that in any such proceedings it shall be open to the defendant to show that the contravention did not cause any depreciation of the parsonage house or that the timber had no net value or that the amount required to be paid exceeds the amount of the depreciation or value, and judgment may be given accordingly.
- (3) If it appears to the Board that any timber growing . . . ^{F1} in any churchyard of a benefice ought, as a matter of good management, to be felled, the Board may by notice require the incumbent to fell it and, if he fails to comply with the notice, may themselves do so and sell the timber, and the powers of entry conferred by section 11 of this Measure shall apply for the purpose of such felling and sale.
- (4) A notice under the last preceding subsection shall inform the incumbent of his right to make representations and the date by which the representations must be made,

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which shall not be less than one month from the date on which the notice is sent, and section 4(5) shall apply to the consideration of any representations, duly made by the incumbent, and the Board shall then decide whether or not to proceed with the notice.

- (5) The consent of the patron or ordinary shall not be necessary for any felling in accordance with this section.
- (6) The net proceeds of any such felling and any moneys recovered by the Board under subsection (2) of this section may be applied for the purpose of planting new trees, and so far as they are not so applied, shall, in the case of timber in a churchyard, be paid to the parochial church council and applied for the maintenance of the fabric of any church maintainable by the council, and in other cases be paid to the Commissioners and treated in the same way as the net proceeds of the demolition of outbuildings of a parsonage house . . . ^{F1}, under section 19(4) of this Measure.
- (7) Where the expense to the incumbent of felling, lopping or topping any trees in accordance with this section exceeds the proceeds thereof, the Board may defray the amount of the excess.

Textual Amendments

- F1** Words repealed with saving by [Endowments and Glebe Measure 1976 \(No. 4\), Sch. 6 para. 3, Sch. 8](#)
- F2** Words substituted by [Endowments and Glebe Measure 1976 \(No. 4\), Sch. 5 para. 4\(3\)](#)

21 Additions and alterations to parsonage houses and glebe buildings.

- (1) An incumbent shall not make any additions or alterations to the buildings of a parsonage house . . . ^{F3}^{F4} [until after he has consulted the registered patron, and obtained the consent of the Board], and if he does so, the Board may by notice require him or his personal representative to restore the buildings to the condition in which they were before, and, on receipt of the notice, the incumbent or his personal representative shall restore the buildings as directed by the notice.
- (2) If the incumbent or his personal representative refuses or neglects to comply with the notice, the Board may, if they think fit, execute such works as may be necessary to restore the buildings as aforesaid, and the powers of entry conferred by section 11 of this Measure shall apply for that purpose, and the cost of the works shall be recoverable as a debt due to the Board from the incumbent or his personal representative.
- (3) Before refusing their consent under this section, the Board shall give notice to the incumbent of their intention to do so, and subsection (4) of the last preceding section shall apply to any such notice and to any other notice under this section as it applies to a notice therein mentioned.

Textual Amendments

- F3** Words repealed with saving by [Endowments and Glebe Measure 1976 \(No. 4\), Sch. 6 para. 3, Sch. 8](#)
- F4** Words substituted by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\), s. 41\(1\), Sch. 4 para. 15](#)

Modifications etc. (not altering text)

- C1** [S. 21\(1\)](#) amended by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\), s. 34\(6\)](#)

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22 F5

Textual Amendments

F5 S. 22 repealed with saving by [Endowments and Glebe Measure 1976 \(No. 4\)](#), Sch. 6 para. 3, [Sch. 8](#)

23 Board to be informed and to advise and negotiate on matters affecting benefice property.

The incumbent of a benefice shall keep the Board informed of matters affecting buildings and land belonging to the benefice, other than churches, and in particular of matters arising from any notice given to him by a Government department, local or public authority, public utility undertakers or, in the case of property held on a lease or tenancy, the landlord of the property; and the Board shall, at the request of the incumbent, advise on or undertake negotiations in respect of any such matters.

24 Guidance by Commissioners.

The Commissioners may at any time seek information from, and give advice to, the Board on any matter concerning their functions under this and any other Measure, and the Board shall provide such information and have regard to such advice.

25 Charities.

Where the purposes of a charity include the repair of parsonage houses, either generally or in a particular locality or as respects a particular parsonage house, the funds of the charity shall continue to be applicable to that purpose, notwithstanding the transfer of responsibility for such repair to the Board.

26 Application of Measure during vacancies.

(1) During a vacancy in a benefice the provisions of this Measure, except section 13(1) and (4), shall apply to that benefice as if for the references to the incumbent there were substituted references to the sequestrators or, if the benefice is not under sequestration, to the bishop of the diocese:

Provided that any liability arising under the said provisions as so applied shall be discharged out of [^{F6}moneys in the hands of the sequestrators or out of] the income of the benefice arising during the vacancy and shall not be a personal liability of the sequestrators or the bishop.

(2) Where, during the period between the sending of a report of a diocesan surveyor to the incumbent or the sequestrators or bishop and the confirming of the report under section 4 of this Measure, a vacancy occurs or is filled, the right to make representations and to meet the Board or a committee or representative of the Board shall, so far as they have not already been exercised, devolve on the sequestrators or bishop or the new incumbent, as the case may be.

(3) F7

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Textual Amendments

- F6** Words inserted by [Endowments and Glebe Measure 1976 \(No. 4\)](#), **Sch. 5 para. 4(4)**
- F7** [S. 26\(3\)\(4\)](#) repealed with saving by [Endowments and Glebe Measure 1976 \(No. 4\)](#), Sch. 6 para. 3, **Sch. 8**

27 Notices and other documents.

- (1) All notices, consents, reports, orders, directions or requests required or authorised by this Measure to be given or made shall be in writing, and any such document or copy thereof may be served, sent or given to any person or body by delivering it to him or to the secretary of the body, or by leaving it at the proper address of that person or body, or by post.
- (2) **F8**
- (3) For the purposes of this section and of section 26 of the ^{M1}Interpretation Act 1889 in its application to this section, the proper address shall, in the case of a body, be the registered or principal office thereof, and in any other case be the last known address of the person concerned.

Textual Amendments

- F8** [S. 27\(2\)](#) repealed by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\)](#), s. 41(2), **Sch. 5**

Marginal Citations

- M1** 1889 c. 63.

28 **F9**

Textual Amendments

- F9** [S. 28](#) repealed by [Church of England \(Miscellaneous Provisions\) Measure 1976 \(No. 3\)](#), **Sch. Pt. II**

29 Transfer to Board of functions of Diocesan Dilapidations Board.

As soon as the Board is appointed or designated under section 1 of this Measure, the functions of the Diocesan Dilapidations Board for that diocese shall be exercisable by the Board, and the Diocesan Dilapidations Board (if a separate body) shall thereupon be dissolved, and for references in any Measure to a Diocesan Dilapidations Board and to surveyors appointed by them there shall be substituted, as respects that diocese, references to the Board and surveyors appointed by the Board.

30 Schemes of diocesan synods.

- (1) Schemes made by a diocesan synod under this Measure shall not take effect until they have been approved by the Commissioners, either without variation or with such variations as may be agreed by the Commissioners and the diocesan synod, and a copy of every scheme as so approved shall be filed in the diocesan registry.

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- (2) The duties and powers of diocesan synods to provide by scheme for the matters specified in this Measure may be exercised by a single scheme or by separate schemes, and any scheme may be varied, revoked or replaced by a subsequent scheme made and approved in like manner.
- (3) Any such scheme may contain such supplementary and incidental provisions as may be necessary or expedient for the purposes of the scheme, and may provide that the scheme shall come into operation on a specified date, and may specify different dates for different provisions or different areas.

31 Interpretation.

- (1) In this Measure, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“benefice” means the office of a rector or vicar of a parish or parishes, with cure of souls, but not including the office of a vicar in a team ministry;

“building” includes part of a building;

“buildings of a benefice” means any parsonage house . . . ^{F10};

“the commencement of this Measure” means, in relation to a diocese, the coming into operation of this Measure on the day appointed for that diocese under the next following section;

“the Commissioners” means the Church Commissioners;

“Diocesan Board of Finance” means, in relation to a diocese, the Board of that name constituted under the ^{M2}Diocesan Board of Finance Measure 1925 for that diocese;

“Diocesan Dilapidations Board” means, in relation to a diocese, the Board constituted under the ^{M3}Ecclesiastical Dilapidations Measure 1923 for that diocese;

[^{F11}“diocesan glebe land” has the same meaning as in the ^{M4}Endowments and Glebe Measure 1976]

..... ^{F12}

“improvement”, in relation to any building, includes enlargement and reduction in size (whether by division or otherwise);

“parsonage house” means a residence vested in the incumbent of a benefice (when the benefice is full), being his official residence . . . ^{F10}, except a residence held under a lease which makes the landlord wholly or mainly responsible for the repairs, and includes the buildings, gardens, orchards, paddock, walls, fences, and appurtenances necessary for the convenient occupation of the residence, and for the purposes of this definition the separate letting of a part of the residence shall not be deemed to exclude it from the residence unless it is excluded by a certificate of the bishop under section 11 of the ^{M5}Parsonages Measure 1938;

[^{F13} “registered patron” has the same meaning as in the Patronage (Benefices) Measure 1986]

“repairs” has the meaning assigned to it by section 2 of this Measure.

[^{F14}“team vicar’s house” means a residence vested in a Diocesan Board of Finance as part of the diocesan glebe land of the diocese, being the designated residence of a vicar in a team ministry established for a benefice under section 19 of the Pastoral Measure 1968, except a residence held under a lease which makes the landlord wholly or mainly responsible for the repairs,

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and includes the buildings, gardens, orchards, paddocks, walls, fences and appurtenances necessary for the convenient occupation of the residence.]

- [^{F15}(2) This Measure shall, so far as applicable, apply to a team vicar's house as it applies to a parsonage house with the omission of references to the patron and to a previous incumbent, and with the substitution, for references to the incumbent, of references to the Diocesan Board of Finance in which the house is vested and the vicar, except that—
- (a) in sections 9, 12(3), 13(5), 15(1)(a) and 16(2), the references shall be to that Board only;
 - (b) in sections 4(1)(b), 11 and 13(1) and (4), the references shall be to the vicar only; and
 - (c) in sections 20(2) and 21(2), the references shall be to such one of them as is responsible for the contravention in question.]

- (3) Any reference in this Measure to any Act or Measure shall be construed as a reference to that Act or Measure as amended by any subsequent Measure.

Textual Amendments

- F10** Words repealed with saving by [Endowments and Glebe Measure 1976 \(No. 4\)](#), Sch. 6 para. 3, **Sch. 8**
- F11** Definition inserted by [Endowments and Glebe Measure 1976 \(No. 4\)](#), **Sch. 5 para. 4(5)(a)**
- F12** Definition repealed with saving by [Endowments and Glebe Measure 1976 \(No. 4\)](#), Sch. 6 para. 3, **Sch. 8**
- F13** Definition substituted by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\)](#), s. 41(1), **Sch. 4 para. 16**
- F14** Definition inserted by [Endowments and Glebe Measure 1976 \(No. 4\)](#), **Sch. 5 para. 4(5)(c)**
- F15** S. 31(2) substituted by [Endowments and Glebe Measure 1976 \(No. 4\)](#), **Sch. 5 para. 4(6)**

Modifications etc. (not altering text)

- C2** Meaning of "parsonage house" extended by [Endowments and Glebe Measure 1976 \(No. 4\)](#), s. 33

Marginal Citations

- M2** 1925 No. 3.
- M3** 1923 No. 3.
- M4** 1976 No. 2.
- M5** 1938 No. 3.

32 Commencement of Measure.

- (1) Subject to section 1 and section 29 of this Measure and the next following subsection, this Measure shall come into operation on such day as may be appointed by order of the Commissioners under seal, and different days may be appointed for different dioceses, and the Commissioners shall cause a notice of every such order to be published in the London Gazette and a copy of every such order to be filed in the diocesan registry of every diocese to which the order applies:
Provided that no day so appointed shall be later than the first day of April next following the expiration of two years from the passing of this Measure.
- (2) Without prejudice to section 37 of the ^{M6}Interpretation Act 1889 as applied by the ^{M7}Interpretation Measure 1925, the provisions of this Measure requiring or empowering diocesan synods to make schemes, and the provisions relating to the making and confirming of such schemes, shall have effect on the passing of this

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Measure, and any appointments, elections and administrative arrangements required in consequence of such schemes may be made or held any time after the making of the schemes, but save as aforesaid no scheme made by a diocesan synod before the appointed day shall come into operation before that day.

Modifications etc. (not altering text)

C3 Power of appointment conferred by s. 32(1) now fully exercised

Marginal Citations

M6 1889 c. 63.

M7 1925 No. 1.

33 Saving for Planning Acts.

Nothing in this Measure shall be taken as authorising or requiring the carrying out of any works otherwise than in accordance with the ^{M8}Town and Country Planning Acts 1962 and ^{M9}1969.

Marginal Citations

M8 1962 c. 38.

M9 1969 c. 30.

34 Transitional Provisions.

The transitional provisions set out in Schedule 1 to this Measure shall have effect for the purpose of the transition from the provisions of the Ecclesiastical Dilapidations Measures 1923 to 1951 to the provisions of this Measure.

35 Repeals.

The Acts and Measures specified in Schedule 2 to this Measure are hereby repealed to the extent specified in column 3 of that Schedule.

Modifications etc. (not altering text)

C4 The text of s. 35 and Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

36 Short title and extent.

- (1) This Measure may be cited as the Repair of Benefice Buildings Measure 1972.
- (2) This Measure shall extend to the whole of the provinces of Canterbury and York, except the Channel Islands and the diocese of Sodor and Man, 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.

Status:

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