



Care of Cathedrals Measure 1990 (No. 2)

1990 No. 2

General principle

1 Duty to have regard to cathedral's purpose

Any body on which functions of care and conservation are conferred by this Measure shall in exercising those functions have due regard to the fact that the cathedral church is the seat of the bishop and a centre of worship and mission.

Approval required for alterations to cathedrals

2 Approval required for alterations to cathedrals

(1) Subject to subsection (2) below and to section 5 of this Measure, the administrative body of a cathedral church shall not implement any proposal—

(a) for the carrying out of works on, above or below land the fee simple in which is vested in the chapter of the cathedral church, 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 within the precinct of the cathedral church, or

(b) for the sale, loan or other disposal of any object the property in which is vested in the chapter of the cathedral church, being an object of architectural, archaeological, artistic or historic interest, or

(c) 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,

unless the proposal has been approved under this Measure.

(2) Subsection (1) above shall not apply in relation to anything which—

Status: This is the original version (as it was originally enacted).

- (a) is done by the administrative body 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.

*Establishment and functions of the Cathedrals
Fabric Commission and fabric advisory committees.*

3 The Cathedrals Fabric Commission for England

- (1) There shall be established a body to be called the Cathedrals Fabric Commission for England (in this Measure referred to as “the Commission”) which shall have the functions assigned to it by this Measure.
- (2) It shall be the duty of the Commission—
 - (a) to give advice to the administrative body of a cathedral church, and to the fabric advisory committee, on the care, conservation, repair or development of the cathedral church;
 - (b) to consider and determine any application made to it in accordance with the provisions of this Measure by the administrative body of a cathedral church;
 - (c) to promote co-operation between the Commission and organisations concerned with the care and study of buildings of architectural, archaeological, artistic or historic interest in England;
 - (d) to assist the administrative bodies of cathedral churches by participating in educational and research projects which in the view of the Commission will promote the care, conservation, repair or development of cathedral churches and their ancillary buildings; and
 - (e) to maintain jointly with the Council for the Care of Churches, a library of books, plans, drawings, photographs and other material relating to cathedral churches and the objects in them.
- (3) The provisions of Schedule 1 to this Measure shall have effect with respect to the Commission.

4 Establishment of fabric advisory committees

- (1) The administrative body of every cathedral church and the Commission shall jointly establish a committee, to be called the fabric advisory committee, which shall have the functions assigned to it by this Measure.
- (2) It shall be the duty of the fabric advisory committee—
 - (a) to give advice to the administrative body of the cathedral church on the care, conservation, repair or development of the cathedral church; and
 - (b) to consider and determine any application made to it in accordance with the provisions of this Measure by the administrative body of the cathedral church.
- (3) The provisions of Schedule 2 to this Measure shall have effect with respect to fabric advisory committees.

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

- (1) The fabric advisory committee shall have power, after consultation with the administrative body and subject to the agreement of the Commission, to determine that section 2 of this Measure 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 subsection.
- (2) If the administrative body wishes to have it determined whether a proposal is one to which section 2 of this Measure does not apply by virtue of subsection (1) above the fabric advisory committee shall have power to determine that question.

Applications for approval

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 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 remains within the precinct of the cathedral church, or
 - (iv) the sale, loan or other disposal of any object for the time being designated under section 13(2) of this Measure in relation to the cathedral church as being of outstanding architectural, archaeological, artistic or historic interest, 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 shall be made to the fabric advisory committee.
- (2) If the administrative body or the fabric advisory committee wishes to have it determined whether under subsection (1) above an application for approval is required to be made to the committee or to the Commission, the Commission shall have power to determine that question.
- (3) Where, on an application made to the fabric advisory committee by virtue of subsection (1) above (not being an application in respect of which a determination has been made under subsection (2) above), at least three members of the committee present and voting determine that the proposal in question gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be determined by the Commission, the secretary of the committee shall refer the application to the Commission and shall notify the administrative body accordingly; and section 8 of this Measure shall apply in relation to that application.
- (4) Any application under this section shall be made in accordance with rules made under this Measure.

7 Applications for approval of fabric advisory committee

- (1) Where any application is made by the administrative body of a cathedral church for the approval of the fabric advisory committee, the chapter clerk shall display in the prescribed manner 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 committee before the end of the prescribed period; and he shall also send such a notice—
 - (a) to the Commission, and
 - (b) if the application relates to a proposal of a kind described in section 2(1)(a) of this Measure, to the local planning authority.
- (2) After considering any representations made to it under this section, the fabric advisory committee 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.
- (3) The secretary of the fabric advisory committee shall send notice of the committee's decision—
 - (a) to the administrative body of the cathedral church, and
 - (b) to the Commission,
 and the chapter clerk shall display in the prescribed manner a copy of the notice sent to the administrative body under this subsection; and, if the decision relates to a proposal of a kind described in section 2(1)(a) of this Measure he shall also send a copy of it to the local planning authority.

8 Applications for approval of Cathedrals Fabric Commission

- (1) Where any application is made by the administrative body of a cathedral church for the approval of the Commission, the chapter clerk shall—
 - (a) display in the prescribed manner, and
 - (b) send to the fabric advisory committee, the Historic Buildings and Monuments Commission 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) of this Measure, it shall also send such a notice to the local planning authority.
- (2) 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.
- (3) The secretary of the Commission shall send notice of the Commission's decision—
 - (a) to the administrative body of the cathedral church,
 - (b) to the fabric advisory committee,
 - (c) to the Historic Buildings and Monuments Commission,
 - (d) to the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section), and
 - (e) to the Royal Commission on the Historical Monuments of England,

and the chapter clerk shall display in the prescribed manner a copy of the notice sent to the administrative body under this subsection; and, if the decision relates to a proposal of a kind described in section 2(1)(a) of this Measure, he shall also send a copy of it to the local planning authority.

Appeals

9 Appeals to Cathedrals Fabric Commission

- (1) Where, on an application made by the administrative body for the approval of the fabric advisory committee, approval is refused or is given subject to conditions, the administrative body may within the prescribed period appeal to the Commission.
- (2) Where, on an application made by the administrative body for the approval of the fabric advisory committee, the application is not determined by the fabric advisory committee within the period of three months immediately following the making of the application, the administrative body may, by notice given within the prescribed period to the Commission, request that the application be dealt with by the Commission.
- (3) The Commission, on considering an appeal under subsection (1) above may reverse, confirm or vary the decision of the fabric advisory committee or any part thereof.
- (4) The Commission, on dealing with an application for approval under subsection (2) above, shall, after considering any representations made to the fabric advisory committee under section 7 of this Measure, 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; and any such determination shall have effect as if it had been given by the fabric advisory committee.

10 Commission of Review

- (1) Where—
 - (a) on an application for approval made to the Commission (including an application being dealt with by the Commission under section 9(2) of this Measure), the Commission refuses to give its approval or gives approval subject to conditions, or
 - (b) on an appeal to the Commission under section 9(1) of this Measure, the Commission refuses to give its approval or refuses to reverse or vary conditions subject to which approval was given by the fabric advisory committee,

the administrative body may, by notice given within the prescribed period to the registrar of the province in which the cathedral church is situated, request that the decision of the Commission be reviewed by a Commission of Review constituted under this section.

- (2) Where, on an application for approval made to the Commission (including an application being dealt with by the Commission under section 9(2) of this Measure) or on an appeal to the Commission under section 9(1) of this Measure, the application or appeal is not determined by the Commission within the period of three months immediately following the end of the period prescribed for the purposes of section 8 or section 9(1) or (2), as the case may be, the administrative body may, by notice given within the prescribed period to the registrar of the province in which the cathedral

church is situated, request that the application or appeal be dealt with by a Commission of Review constituted under this section.

- (3) A Commission of Review shall be constituted of—
- (a) the Dean of Arches and Auditor or a person appointed by him, being a person who is qualified under section 3(3) of the Ecclesiastical Jurisdiction Measure 1963 to be appointed Dean of the Arches and Auditor;
 - (b) one person appointed by the Archbishops of Canterbury and York, being a person who is or has been a dean, provost or residentiary canon of a cathedral church other than the cathedral church to which the application or appeal relates; and
 - (c) one person appointed by the Secretary of State for the Environment, being a person who has special knowledge of the architecture, archaeology, art (including history of art) or history of cathedral churches;
- but no person who has been a member of the Cathedrals Fabric Commission at any time during the preceding five years shall be appointed under paragraph (b) or (c) above.
- (4) A Commission of Review, on reviewing a decision of the Cathedrals Fabric Commission, may reverse, confirm or vary that decision or any part thereof.
- (5) A Commission of Review, on dealing with an application for approval under subsection (2) above, shall, after considering any representations made to the Commission under section 8 of this Measure, 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; and any such determination shall have effect as if it had been given by the Commission.
- (6) A Commission of Review, on dealing with an appeal under subsection (2) above, may reverse, confirm or vary the decision of the fabric advisory committee or any part thereof.
- (7) The decision of a Commission of Review shall be final.

Miscellaneous and general

11 Further powers of the Cathedrals Fabric Commission

- (1) The Commission may, on receiving a request from the Council for the Care of Churches, give advice to the Council with respect to works which are proposed to be carried out in relation to a church of the Church of England which is not a cathedral church.
- (2) The Commission—
- (a) may, on receiving a request made with the approval of the Representative Body of the Church in Wales, give advice with respect to works which are proposed to be carried out in relation to a cathedral church in Wales; and
 - (b) may in exceptional circumstances, with the agreement of the governing body of the Church concerned and of the Standing Committee of the General Synod, give advice in relation to works which are proposed to be carried out in relation to a cathedral church other than a cathedral church of the Church of England or the Church in Wales;

but it shall be a condition of giving any advice by virtue of this subsection that any expenses incurred by the Commission in giving that advice are reimbursed.

- (3) The Commission shall have power to exercise any functions in relation to moneys held by any other body or person for the benefit of cathedral churches generally, being functions delegated to it by that body or person.
- (4) For the purpose of exercising its functions under this Measure the Commission—
 - (a) may acquire books, plans, drawings, photographs and other material relating to cathedral churches; and
 - (b) may from time to time hold conferences for cathedral clergy and staff, cathedral architects, archaeological consultants and others concerned with the care, conservation and maintenance of cathedral churches.

12 Provisions as to cathedral architects and archaeological consultants

- (1) It shall be the duty of the administrative body of a cathedral church to consult the Commission before appointing a cathedral architect under the Cathedrals Measure 1963.
- (2) It shall be the duty of the administrative body of a cathedral church to appoint an archaeological consultant to the cathedral church, except in any case in which the Commission notifies the administrative body that in the view of the Commission the archaeological significance of that cathedral church does not justify such an appointment.

13 Inventories, etc

- (1) It shall be the duty of the administrative body of a cathedral church to compile and maintain an inventory of all objects in the possession of the chapter which the fabric advisory committee considers to be of architectural, archaeological, artistic or historic interest, in accordance with rules made under this Measure, and to complete the compilation of that inventory before the expiration of the period of five years beginning with the date on which this section comes into force.
- (2) It shall be the duty of the fabric advisory committee of a cathedral church to designate those objects included in the inventory compiled and maintained for the cathedral church under subsection (1) above which the committee considers, after consultation with the Commission, to be of outstanding architectural, archaeological, artistic or historic interest.
- (3) It shall be the duty of the administrative body of a cathedral church to prepare a plan indicating the extent of the land surrounding the cathedral church of which the fee simple is vested in the chapter and to complete the preparation of that plan before the expiration of the period of two years beginning with the date on which this section comes into force, and the chapter clerk shall send the plan to the Commission.
- (4) On receiving a plan prepared by the administrative body under subsection (3) above, the Commission shall, after consultation with the administrative body, indicate thereon the precinct of the cathedral church for the purposes of this Measure.

14 Reports to be made and records kept by cathedral architects

- (1) It shall be the duty of the administrative body of a cathedral church to arrange, during the period of five years beginning with the date on which this section comes into force and during every subsequent period of five years, for the cathedral architect, in consultation with the archaeological consultant (if any), to make a report in writing to the administrative body on works which he considers will need to be carried out as soon as practicable in relation to the cathedral church and of the order in which he considers that they should be carried out; and the cathedral architect shall send a copy of every such report to the Commission.
- (2) It shall also be the duty of the administrative body of a cathedral church to keep a record of all works carried out in relation to the cathedral church or in the precinct of a cathedral church.

15 Applications for listed building or scheduled monument consent

Where the administrative body of a cathedral church proposes to make any application for—

- (a) listed building consent under section 55 of the Town and Country Planning Act 1971, or
- (b) scheduled monument consent under section 2 of the Ancient Monuments and Archaeological Areas Act 1979,

in respect of any building or monument within the precinct of the cathedral church, the chapter clerk shall send to the Commission a notice stating that representations in writing with respect to the proposed application may be sent to him before the end of the prescribed period.

16 Rules

- (1) The Standing Committee shall appoint a committee (to be known as the Cathedrals (Rules) Committee) consisting of a chairman and four other members of whom at least one shall be a member of the administrative body of a cathedral church.
- (2) The Cathedrals (Rules) Committee shall have power to make such rules as it considers necessary or desirable for giving effect to this Measure and may, in particular, make provision—
 - (a) as to any matter of procedure arising under this Measure;
 - (b) as to the manner in which proceedings before the Cathedrals Fabric Commission under section 9 of this Measure and proceedings before a Commission of Review under section 10 of this Measure are to be instituted and conducted and as to the payment of costs, fees and expenses incurred in or for the purposes of those proceedings; and
 - (c) for enabling evidence to be obtained of compliance with the provisions of this Measure.
- (3) Any rules made under this section shall be laid before the General Synod and shall not come into force until approved by the General Synod, whether with or without amendment.
- (4) Where the Standing Committee determines that the rules do not need to be debated by the General Synod then, unless—

- (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the rules to be debated or
 - (b) notice is so given by any such member that he wishes to move an amendment to the rules and at least twenty-five other members of the Synod indicate when the amendment is called that they wish the amendment to be moved,
- the rules shall for the purposes of subsection (3) above be deemed to have been approved by the General Synod without amendment.
- (5) The Statutory Instruments Act 1946 shall apply to rules approved by the General Synod under this section as if they were statutory instruments and were made when so approved, and as if this Measure were an Act providing that any such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

17 Saving

Nothing in this Measure shall dispense with any consent or approval which is required by or under the constitution and statutes of a cathedral church for anything done by the administrative body of that cathedral church.

18 Power to exclude parish church cathedrals

- (1) Subject to subsection (2) below the Standing Committee may, on the petition of the administrative body of a parish church cathedral, by order direct that this Measure shall not apply to the parish church cathedral and that the parish church cathedral shall be subject to the faculty jurisdiction of the consistory court.
- (2) The Standing Committee shall not make an order under subsection (1) above unless it has consulted the Commission and the fabric advisory committee of the parish church cathedral and is satisfied that—
- (a) the making of the order is appropriate having regard to the architectural, archaeological, artistic and historic character of the parish church cathedral; and
 - (b) appropriate arrangements will exist for the giving of advice to the administrative body on the care, conservation and repair of the parish church cathedral.
- (3) An order under subsection (1) above may include such provision as the Standing Committee considers necessary or expedient as to the performance of functions conferred on archdeacons by any enactment in relation to the faculty jurisdiction of consistory courts.
- (4) Where an order made under subsection (1) above is in force in relation to a parish church cathedral, section 10(2)(b) of the Cathedrals Measure 1963 shall not apply to the parish church cathedral, and any provision of the constitution and statutes of the parish church cathedral abolishing or excluding the faculty jurisdiction of the consistory court shall not have effect.
- (5) Where an order made under subsection (1) above has been in force in relation to a parish church cathedral for a period exceeding ten years, the Standing Committee may, on the petition of the administrative body of the parish church cathedral and after consultation with the Commission and the Diocesan Advisory Committee of the diocese in which the parish church cathedral is situated, by order revoke it.

- (6) An order made under this section shall be laid before the General Synod and shall not come into force until approved by the General Synod, whether with or without amendment.
- (7) The Statutory Instruments Act 1946 shall apply to an order approved by the General Synod under this section as if it were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

19 Notices

All notices required to be given under this Measure shall be in writing and shall be in the prescribed form.

20 Interpretation

- (1) In this Measure, unless the context otherwise requires—

“administrative body”—

- (a) in the case of a cathedral church in respect of which there is a corporate body known as the dean and chapter, means the body by which administrative functions in relation to the cathedral church are performed by virtue of paragraph (b) of section 7 of the Cathedrals Measure 1963;
- (b) in the case of a parish church cathedral, means the body by which administrative functions in relation to the cathedral church are performed by virtue of paragraph (b) of section 8 of that Measure;

“archaeological consultant” means a person who possesses such qualifications and expertise in archaeological matters as the Commission may recognise as appropriate;

“archaeological remains” means the remains of any building, work or artefact, including any trace or sign of the previous existence of the building, work or artefact in question;

“architect” means a person registered under the Architects Registration Acts 1931 to 1969;

“building” includes any structure or erection, and any part of a building as so defined;

“cathedral architect”, in relation to a cathedral church, means the architect appointed under the Cathedrals Measure 1963, by whatever name called;

“cathedral church” means any cathedral church in the provinces of Canterbury and York, except—

- (a) the Cathedral Church of Christ in Oxford,
- (b) any cathedral church in the diocese of Sodor and Man or in the diocese in Europe, and
- (c) any cathedral church to which this Measure does not, for the time being, apply by virtue of an order under section 18(1) of this Measure;

“the chapter”—

- (a) in the case of a cathedral church in respect of which there is a corporate body known as the dean and chapter, means the dean and chapter; and
- (b) in the case of a parish church cathedral, means the cathedral chapter;

“chapter clerk” means the clerk to the administrative body, by whatever name called;

“chartered building surveyor” means a member of the Royal Institution of Chartered Surveyors qualified as a chartered building surveyor;

“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;

“the Historic Buildings and Monuments Commission” means the Historic Buildings and Monuments Commission for England;

“Liturgical Commission” 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;

“local planning authority” in relation to any area means the body exercising the functions of a local planning authority under section 55 of the Town and Country Planning Act 1971 in that area;

“national amenity societies” means the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings and the Victorian Society and such other body as may from time to time be designated by the Dean of the Arches and Auditor as a national amenity society for the purpose of this Measure;

“parish church cathedral” means any cathedral church other than one in respect of which there is a corporate body known as the dean and chapter;

“precinct” in relation to a cathedral church means the precinct for the time being indicated on the plan required for that cathedral church by section 13(3) and (4) of this Measure;

“prescribed” means prescribed by rules made under section 16 of this Measure;

“the Standing Committee” means the Standing Committee of the General Synod.

- (2) For the purposes of this Measure any object or structure permanently situated in a cathedral church or any building within the precinct of a cathedral church shall be treated as part of that cathedral church or building, as the case may be.
- (3) For the purposes of this Measure a building shall be treated as being used for ecclesiastical purposes if it would be so used but for any works proposed to be carried out in relation to it.

21 Short title and commencement

- (1) This Measure may be cited as the Care of Cathedrals Measure 1990.
- (2) This Measure shall come into force on such date as the Archbishops of Canterbury and York may jointly appoint, and different dates may be appointed for different provisions.