



# Church of England (Miscellaneous Provisions) Measure 2005

2005 No. 3

A Measure passed by the General Synod of the Church of England to amend the Parsonages Measure 1938; to amend sections 6 and 11 of the Church Commissioners Measure 1947; to repeal section 7 of the Diocesan Stipends Funds Measure 1953; to amend section 8 of the Parochial Church Councils (Powers) Measure 1956; to amend section 20 of the Church Property (Miscellaneous Provisions) Measure 1960; to amend the Repair of Benefice Buildings Measure 1972; to amend the Endowments and Glebe Measure 1976; to amend the Pastoral Measure 1983; to make provision for the appointment of diocesan secretaries; and for purposes connected therewith. [24th March 2005]

## 1 Amendment of Parsonages Measure 1938

The Parsonages Measure 1938 (1 & 2 Geo. 6. No. 3) shall have effect subject to the amendments specified in Schedule 1 to this Measure.

### Commencement Information

II S. 1 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

## 2 Amendment of Church Commissioners Measure 1947

The Church Commissioners Measure 1947 (10 & 11 Geo.6. No. 2) shall be amended as follows—

- (a) in section 6(1)(b) after the word “shall”, in the third place where it occurs, there shall be inserted the words “, if present, ”;
- (b) for section 6(3B)(d) there shall be substituted the following paragraph—
  - “(d) a duty to appoint, with the approval of the Board, an auditor and to direct the manner in which the audit required to be

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made under section 11(2) below is undertaken, including ensuring that the requirements of generally accepted auditing standards are met;” and

- (c) in section 11(2) the words “in such manner and by such person as the Treasury may direct” shall be omitted.

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**Commencement Information**

**I2** S. 2 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

**3 Amendment of Diocesan Stipends Funds Measure 1953**

Section 7 of the Diocesan Stipends Funds Measure 1953 (1 & 2 Eliz. 2 No. 2) is hereby repealed.

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**Commencement Information**

**I3** S. 3 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

**4 Amendment of Parochial Church Councils (Powers) Measure 1956**

For section 8 of the Parochial Church Councils (Powers) Measure 1956 (4 & 5 Eliz. 2 No. 3) there shall be substituted the following section—

**“8 Financial statements of the council**

- (1) Every council shall furnish to the annual parochial church meeting for discussion the financial statements of the council for the financial year immediately preceding the meeting.
- (2) The financial year referred to in subsection (1) above shall be such period as may be prescribed and the financial statements referred to in that subsection shall be prepared in the prescribed form, audited or independently examined as prescribed and published and displayed in the prescribed manner.
- (3) In subsection (2) above “prescribed” means prescribed by the Church Representation Rules or by regulations made under those Rules.”

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**Commencement Information**

**I4** S. 4 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

**5 Amendment of Church Property (Miscellaneous Provisions) Measure 1960**

- (1) Section 20 of the Church Property (Miscellaneous Provisions) Measure 1960 (8 & 9 Eliz. 2 No. 1) shall be amended as follows.

- (2) For subsection (1) there shall be substituted the following subsection—

“(1) The Commissioners shall have power to grant to any First Church Estates Commissioner or Third Church Estates Commissioner who retires from

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service as such a Commissioner, having served a period of pensionable service, superannuation benefits of such a kind and of such amounts as the Commissioners may determine, being benefits which are no more favourable to the beneficiary than the benefits which would have been payable if the Commissioner had been a member of the Church Administrators Pension Fund who had served an equivalent period of pensionable service.”.

(3) Subsection (2) is hereby repealed.

(4) For subsection (2A) there shall be substituted the following subsection—

“(2A) Where a First Church Estates Commissioner or a Third Church Estates Commissioner dies before or after retirement from service as such a Commissioner, having served a period of pensionable service, and leaves a widow or widower, the Commissioners shall have power to grant to the surviving spouse, subject to such conditions as they may determine, superannuation benefits of such a kind and of such amounts as the Commissioners may determine, being benefits which are no more favourable to the beneficiary than the benefits which would have been payable if the Commissioner had been a member of the Church Administrators Pension Fund who had served an equivalent period of pensionable service.”.

(5) In subsection (3) after the words “pensionable service” there shall be inserted the words “, in relation to a Church Estates Commissioner, ”.

(6) At the end there shall be added the following subsection—

“(4) In determining the amount of any superannuation benefits to be granted to a person under this section the Commissioners shall have regard to any superannuation benefits to which that person may be entitled in respect of any other service performed by the First or Third Church Estates Commissioner before the Commissioner’s pensionable service began.”.

(7) Nothing in this section shall have effect in relation to a First or Third Church Estates Commissioner who is in service as such a Commissioner on the date of the coming into force of this section, or who has retired from or otherwise ceased to be in service as such a Commissioner before that date.

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**Commencement Information**

**I5** S. 5 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

**6 Amendment of Repair of Benefice Buildings Measure 1972**

(1) The Repair of Benefice Buildings Measure 1972 (1972 No. 2) shall have effect subject to the amendments specified in Schedule 2 to this Measure.

(2) Any scheme made by a diocesan synod and in force on the date of the coming into force of this section shall have effect subject to the amendments in paragraphs 2 to 9 of Schedule 2 to this Measure.

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**Commencement Information**

**I6** S. 6 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

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## 7 Amendment of Endowments and Glebe Measure 1976

The Endowments and Glebe Measure 1976 (1976 No. 4) shall have effect subject to the amendments specified in Schedule 3 to this Measure.

### Commencement Information

**I7** S. 7 in force at 1.6.2005 by [S.I. 2005/2](#), Instrument made by Archbishops

## 8 Amendment of Pastoral Measure 1983

The Pastoral Measure 1983 (1983 No. 1) shall have effect subject to the amendments specified in Schedule 4 to this Measure.

### Commencement Information

**I8** S. 8 in force at 1.6.2005 by [S.I. 2005/2](#), Instrument made by Archbishops

VALID FROM 01/09/2005

## 9 Diocesan Secretaries

- (1) There shall be, for each diocese, an officer, to be known as the diocesan secretary, who shall exercise the functions conferred by or under this section and such other functions as may be specified by the diocesan synod of the diocese.
- (2) The diocesan secretary shall be the chief administrative officer of the diocese.
- (3) The diocesan secretary may be appointed by the diocesan synod to act as the secretary of the diocesan synod appointed in accordance with rule 34(1)(b) of the Church Representation Rules.
- (4) The diocesan secretary may, if the terms of appointment so provide, act as the secretary to the Diocesan Board of Finance for that diocese.
- (5) Subject to subsections (2) to (4) above the manner and terms of appointment of the diocesan secretary shall be such as may be determined from time to time by the diocesan synod.
- (6) In this section “Diocesan Board of Finance” means, in relation to a diocese, the board of that name constituted under the Diocesan Boards of Finance Measure 1925 (15 & 16 Geo. 5 No. 3) for that diocese or recognised under section 9 of the Diocesan Stipends Funds Measure 1953 (1 & 2 Eliz. 2 No. 2) as being the board of finance for that diocese for the purposes of that Measure.

## 10 Repeals

The enactments mentioned in Schedule 5 to this Measure are hereby repealed to the extent specified in the second column of that Schedule.

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**Commencement Information**

**I9** S. 10 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

**11 Citation, commencement and extent**

- (1) This Measure may be cited as the Church of England (Miscellaneous Provisions) Measure 2005.
- (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 provisions.
- (3) This Measure shall extend to the whole of the Provinces of Canterbury and York, except that it shall only extend to the Isle of Man and the Channel Islands in accordance with the following provisions of this section.
- (4) This section shall extend to the Isle of Man and, if an Act of Tynwald or an instrument made under an Act of Tynwald so provides, sections 2, 4, 8, 9 and 10 above and Schedules 4 and 5 to this Measure 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
- (5) This Measure, except sections 1, 2, 3 and 4 above and Schedule 1 to this Measure, 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.

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**Commencement Information**

**I10** S. 11 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

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## SCHEDULES

### SCHEDULE 1

Section 1

#### AMENDMENT OF PARSONAGES MEASURE 1938

1 The Parsonages Measure 1938 (1 & 2 Geo.6. No. 3) shall be amended as follows.

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**Commencement Information**

**I11** Sch. 1 para. 1 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

2 In section 1—

(a) after subsection (3A) there shall be inserted the following subsection—

“(3AA) The consent of the Church Commissioners shall not be required under subsection (3)(ii) above to the exercise of the power conferred by subsection (1)(ii) where the exercise of the power consists only of pulling down the residence house and outbuildings or any of them or any part thereof.”;

(b) in subsection (6), for the definition of “connected person” there shall be substituted the following definition—

““connected person” means the incumbent, the bishop, any member, officer, agent or employee of the parochial church council of any parish within the benefice in question or of the diocesan board of finance concerned or the spouse or any child, parent, grandparent, brother or sister of any such person;”.

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**Commencement Information**

**I12** Sch. 1 para. 2 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

3 In section 2(1)(ii), for the words “under the preceding paragraph or any house acquired by way of exchange under the provisions of this Measure” there shall be substituted the words “ or acquired as property of the benefice under any powers conferred by or under this Measure or any other enactment ”.

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**Commencement Information**

**I13** Sch. 1 para. 3 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

4 In section 7 there shall be added at the end the words “ within the period specified in the notice ”.

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**Commencement Information**

**I14** Sch. 1 para. 4 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

5 In section 9 after subsection (2B) there shall be inserted the following subsection—

“(2C) Where any transaction under this Measure affecting property does not contain a statement under subsection (2A) or (2B) above then in favour of a person who (whether under the transaction or afterwards) in good faith acquires an interest in the property for money or money's worth the disposition effected by the transaction shall be valid whether or not any consent of the Commissioners or the Board which was required to the transaction has been given.”.

**Commencement Information**

**I15** Sch. 1 para. 5 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

6 In section 11(1) for the words “of this Measure” there shall be substituted the words “conferred by this Measure or any other enactment”.

**Commencement Information**

**I16** Sch. 1 para. 6 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

7 In section 12 for the words “the parish within which that benefice is situate” there shall be substituted the words “any parish within that benefice”.

**Commencement Information**

**I17** Sch. 1 para. 7 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

SCHEDULE 2

Section 6

AMENDMENT OF REPAIR OF BENEFICE BUILDINGS MEASURE 1972

1 The Repair of Benefice Buildings Measure 1972 (1972 No. 2) shall be amended as follows.

**Commencement Information**

**I18** Sch. 2 para. 1 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

2 In section 1(2) there shall be added at the end the words— “ Provided that no person appointed as a surveyor after the coming into force of section 6 of the Church of England (Miscellaneous Provisions) Measure 2005 shall be considered to be a fit person for the purposes of this subsection unless that person is registered under the Architects Act 1997 or is a corporate member of the Chartered Institute of Building

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or the Royal Institution of Chartered Surveyors or a member of such other body as the Commissioners may determine and appearing to them to be suitably qualified.”.

**Commencement Information**

**I19** Sch. 2 para. 2 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 3 In section 14(1) after the word “Board”, in the first place where it occurs, there shall be inserted the words “ is satisfied that a parsonage house may be sold or exchanged without the consent of the Commissioners under the Parsonages Measure 1938 or ” and for the words “sale, exchange or demolition” in each place where they occur there shall be substituted the words “ sale or exchange ”.

**Commencement Information**

**I20** Sch. 2 para. 3 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 4 In section 14(1)(b) the words “in a case where the parsonage house is to be sold or exchanged,” shall be omitted.

**Commencement Information**

**I21** Sch. 2 para. 4 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 5 In section 14(2) for the words “sale, exchange or demolition” there shall be substituted the words “ sale or exchange ”.

**Commencement Information**

**I22** Sch. 2 para. 5 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 6 In section 15(4) for the words “shall not constitute a charge on the Parsonages Fund established under section 17 hereof” there shall be substituted the words “ shall be met by any fund or funds capable of being used for the purposes in question ” and the proviso shall be omitted.

**Commencement Information**

**I23** Sch. 2 para. 6 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 7 In section 16 there shall be added at the end the following subsection—
- “(4) The Board shall in respect of any building in the diocese (other than a parsonage house or other residence of an incumbent in the diocese) used as a residence by any person declared by the bishop to be engaged in the cure of souls within the diocese have power to defray on behalf of the Diocesan Board of Finance for the diocese the cost of any such payments as are referred to in paragraphs (a) to (d) of subsection (1) above and the costs, charges and expenses of any sale.”.



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**Commencement Information**

**I24** Sch. 2 para. 7 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

8 (1) For section 17 there shall be substituted the following section—

**“17 Expenditure of the Board**

All expenditure of the Board, except expenditure defrayed out of a specific trust fund, shall be defrayed out of any fund or funds capable of being applied for the purposes in question.”

(2) On the date of the coming into force of this paragraph every Parsonages Fund for a diocese shall be dissolved and all moneys held in the Fund shall be paid into any fund or funds which may be used for the purposes of defraying the cost of the provision, improvement or repair of parsonage houses.

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**Commencement Information**

**I25** Sch. 2 para. 8 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

9 Section 18 shall cease to have effect.

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**Commencement Information**

**I26** Sch. 2 para. 9 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

10 In section 19(3) and (6) for the words “the Parsonages Fund”, in each place, there shall be substituted the words “any fund or funds capable of being applied for the purposes of the provision, improvement or repair of parsonage houses”.

.....  
**Commencement Information**

**I27** Sch. 2 para. 10 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

11 In section 21—  
(a) in subsection (3) the words after “to do so” to the end shall be omitted; and  
(b) at the end there shall be added the following subsection—

“(5) Any notice under this section shall inform the incumbent or the person or representative as the case may be, of the right to make representations and the date by which the representations must be made, which shall be not less than one month from the date on which the notice is sent, and section 4(5) above shall apply to the consideration of any representations duly made and the Board shall then decide whether or not to proceed with the notice.”

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**Commencement Information**

**I28** Sch. 2 para. 11 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

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## SCHEDULE 3

Section 7

## AMENDMENT OF ENDOWMENTS AND GLEBE MEASURE 1976

- 1 The Endowments and Glebe Measure 1976 (1976 No. 4) shall be amended as follows.

**Commencement Information**

**I29** Sch. 3 para. 1 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 2 In section 20—
- (a) after section (1) there shall be inserted the following subsection—
- “(1A) The consent of the Commissioners shall not be required for any disposition of land other than any such disposition as is specified in Schedule 3 to this Measure.”;
- (b) after subsection (2C) there shall be inserted the following subsection—
- “(2D) Where the tenant of any diocesan glebe land is entitled, under any enactment, to acquire from or be granted by the Diocesan Board of Finance any interest in the land or to have any existing interest renewed or extended by them the consent of the Commissioners shall not be required to any disposition which gives effect to the tenant's entitlement and subsections (2A), (2B) and (2C) above shall not apply in relation to that disposition.”;
- (c) in subsection (5) for the words from the beginning to “subsection (1) above” there shall be substituted the words “ Before a Diocesan Board of Finance seeks the consent of the Commissioners under subsection (1) above to a transaction specified in Schedule 3 except any transaction to which subsection (2D) above applies ” and immediately before the words “a notice” there shall be inserted the words “ and on the parochial church council of that parish ”;
- (d) the subsection (6A) inserted by paragraph 5(e) of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2000 (2000 No. 1) shall be re-numbered as subsection (6B);
- (e) in subsection (8) the words “the terms of” shall be omitted;
- (f) in subsection (9) the words “the terms of” shall be omitted and for the words “those terms” there shall be substituted the words “ that transaction ”;
- (g) in subsection (10) the words “the terms of” shall be omitted; and
- (h) after subsection (11) there shall be inserted the following subsection—
- “(11A) Where any such document as is mentioned in subsection (11) above does not contain such a statement as is there mentioned then in favour of a person who (whether under the transaction or afterwards) in good faith acquires an interest in the diocesan glebe land in question for money or money's worth the disposition effected by the transaction shall be valid whether or not the consent of the Commissioners was required to the transaction.”.

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**Commencement Information**

**I30** Sch. 3 para. 2 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 3 In section 24 for the words “holding the office of vicar in a team ministry or assistant curate or a deaconess or lay worker” there shall be substituted the words “declared by the bishop to be engaged in the cure of souls within the diocese” and for the headnote to that section there shall be substituted the following headnote “**Rent free homes on diocesan glebe land for those declared to be engaged in the cure of souls**”.

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**Commencement Information**

**I31** Sch. 3 para. 3 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 4 Section 26(3) shall cease to have effect.

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**Commencement Information**

**I32** Sch. 3 para. 4 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 5 In section 32—
- (a) in subsection (1) after the words “shall so notify” there shall be inserted the words “the parochial church council and”; and
  - (b) in subsection (2) after the words “the Board” there shall be inserted the words “, the parochial church council”.

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**Commencement Information**

**I33** Sch. 3 para. 5 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 6 Section 42 shall have effect as if it had not been repealed by section 8 of and paragraph 12 of Schedule 5 and section 20 of and Part II of Schedule 8 to the Church of England (Miscellaneous Provisions) Measure 2000 (2000 No. 1).

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**Commencement Information**

**I34** Sch. 3 para. 6 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 7 In section 45(1), in the definition of “pastoral scheme” the words “and confirmed by Order in Council” shall be omitted.

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**Commencement Information**

**I35** Sch. 3 para. 7 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 8 Schedule 3 shall have effect as if it had not been repealed by section 20 of and Part II of Schedule 8 to the Church of England (Miscellaneous Provisions) Measure 2000 (2000 No. 1).

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**Commencement Information**

**I36** Sch. 3 para. 8 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

SCHEDULE 4

Section 8

AMENDMENT OF PASTORAL MEASURE 1983

1 The Pastoral Measure 1983 (1983 No.1) shall be amended as follows.

**Commencement Information**

**I37** Sch. 4 para. 1 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

2 In section 6(3)(a) after the word “Commission” there shall be inserted the words “, English Heritage and the Joint Committee of the National Amenity Societies”.

**Commencement Information**

**I38** Sch. 4 para. 2 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

3 In section 8—

(a) in subsection (1), for the words from the beginning to “(if any),” there shall be substituted the words “ Where no representations with respect to any such draft scheme have been duly made and the Commissioners ” and the words “and shall submit it for confirmation by Her Majesty in Council” shall be omitted; and

(b) after subsection (1) there shall be inserted the following subsections—

“(1A) Where representations with respect to any such draft scheme have been duly made and the Commissioners, having considered those representations, are of opinion that the draft scheme should be made, and do not propose to amend or further amend it under section 7, they shall so far as practicable—

(a) serve on the persons who duly made written representations with respect to the draft scheme notice of the Commissioners' decision with respect to the representations together with a statement in writing of the reasons therefor; and

(b) serve on any other persons, being interested parties, a copy of the notice.

(1B) A notice under subsection (1A) shall inform persons who have duly made written representations with respect to the draft scheme of their rights, on obtaining the leave of the Judicial Committee of the Privy Council, to appeal to Her Majesty in Council and shall specify the date, being a date not less than twenty-eight days after the service of the notice, on or before which notice of intention to apply for such leave must be given.

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(1C) When serving a notice under subsection (1A) the Commissioners shall send a copy thereof to the Registrar of the Privy Council together with a copy of the draft scheme and a copy of the statement in writing referred to in that subsection.”.

**Commencement Information**

**I39** Sch. 4 para. 3 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

4 For section 9 there shall be substituted the following section—

**“9 Appeals to the Privy Council**

- (1) Any person who has duly made written representations with respect to the draft scheme may appeal to Her Majesty in Council against the scheme or any provisions thereof, but only with the leave of the Judicial Committee of the Privy Council.
- (2) Schedule 2 shall apply to applications for leave to appeal, and to appeals to Her Majesty in Council, under this section.
- (3) If—
  - (a) no notice of intention to apply for leave to appeal is given on or before the date specified in the notice served under section 8(1A), or
  - (b) no application for such leave is made within the period prescribed by paragraph 4 of Schedule 2, or
  - (c) the Judicial Committee refuses to grant such leave, or
  - (d) the appeal stands dismissed for non-prosecution by virtue of paragraph 11 of that Schedule, or
  - (e) written representations with respect to the draft scheme have been duly made but it has not been practicable to serve any notice under section 8(1A)(a),the Commissioners may make the scheme.
- (4) If leave to appeal is granted, the Judicial Committee shall hear the appeal, and the Judicial Committee shall make a report thereon and may propose to Her Majesty in Council that the appeal be allowed or dismissed or that the draft scheme should be returned to the Commissioners for reconsideration, and Her Majesty in Council may accordingly—
  - (a) allow the appeal, in which case the Commissioners shall not make the scheme, but without prejudice to the preparation and publication of a further draft scheme, or
  - (b) dismiss the appeal, in which case the Commissioners may make the scheme, or
  - (c) return the draft scheme to the Commissioners for reconsideration.
- (5) Where a draft scheme is returned to the Commissioners for reconsideration as aforesaid, they may—
  - (a) withdraw the draft scheme, or
  - (b) inform the Registrar of the Privy Council that they wish to make the scheme without any amendment of the draft scheme, or

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- (c) amend the draft scheme with the agreement of the bishop given after consultation with the pastoral committee.
- (6) Where the Commissioners inform the Registrar of the Privy Council that they wish to make the scheme without any amendment of the draft scheme, the Judicial Committee, without any further hearing, may propose to Her Majesty in Council that the appeal should be allowed or dismissed, and the like effect shall follow on that proposal as if it had been made under subsection (4)(a) or (b).
- (7) Where the Commissioners amend the draft scheme, it shall be treated as a draft scheme amended under section 7 and the provisions of this Part shall apply thereto accordingly.”

**Commencement Information**

**I40** Sch. 4 para. 4 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 5 In section 10—
- (a) in subsection (1) for the words “Order in Council by which a scheme is confirmed under section 9” there shall be substituted the words “ scheme made by them under this Part ” and for “8” there shall be substituted “ 8(4) ”; and
- (b) in subsection (2) for the words “Order in Council” there shall be substituted the word “ scheme ”.

**Commencement Information**

**I41** Sch. 4 para. 5 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 6 In section 11—
- (a) in subsection (1) for the words “and confirmed by Order in Council” there shall be substituted the words “ by the Commissioners ”; and
- (b) in subsection (2) for the words “confirmed by Order in Council under section 9” there shall be substituted the words “ made by the Commissioners ” and for “8” there shall be substituted “ 8(4) ”.

**Commencement Information**

**I42** Sch. 4 para. 6 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 7 In section 12(1) for the words “, made and in the case of a scheme confirmed” there shall be substituted the words “ and made ”.

**Commencement Information**

**I43** Sch. 4 para. 7 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 8 In section 25(3) for the words “confirmed by Order in Council under section 9” there shall be substituted the words “ made under Part I ”.

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**Changes to legislation:** There are currently no known outstanding effects for the Church of England (Miscellaneous Provisions) Measure 2005. (See end of Document for details)

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**Commencement Information**

**I44** Sch. 4 para. 8 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

9 In section 39 there shall be added at the end the following subsection—

“(6) Where a pastoral order has made provision for the holding in plurality of any two or more benefices and any such provision has been terminated the bishop may, by instrument, make such consequential amendments to the order as he thinks fit.”.

.....

**Commencement Information**

**I45** Sch. 4 para. 9 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

10 In section 41(4) after the word “redundant”, in the second place where it occurs, there shall be inserted the words “ or as respects which questions arise as to a proposed acquisition of a redundant church under section 44(5A) ”.

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**Commencement Information**

**I46** Sch. 4 para. 10 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

11 In section 44—

(a) in subsection (5)(a) after the word “Part” there shall be inserted the words “ or acquired under subsection (5A) ” and there shall be added, at the end, the words “ and to replace, renew and provide or improve such services or facilities as are required to facilitate greater access to and use of that property ”;

(b) after subsection (5) there shall be inserted the following subsections—

“(5A) Where the freehold interest in a redundant church or any land annexed or belonging thereto has been disposed of under a redundancy scheme or pastoral scheme to which section 46 or 47 applies and the owner of that freehold interest is unable for any reason to use the redundant church for the use specified in the scheme including any use allowed under any covenant imposed in relation to the scheme under section 62 and is willing to dispose of the freehold interest by way of gift, the Churches Conservation Trust may, with the prior consent in writing of the Commissioners, acquire the freehold by way of gift but, before consenting to such an acquisition, the Commissioners shall—

(a) consult the bishop and the Advisory Board;

(b) be satisfied that the Churches Conservation Trust will have the resources to meet the cost of maintaining the redundant church.

(5B) The Commissioners shall seal the deed of transfer of any land acquired under subsection (5A).”;

(c) in subsection (6) for the words “such sums” there shall be substituted the words “ sums referred to in subsection (5)(d) ”; and

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(d) for subsection (12) there shall be substituted the following subsection—

“(12) The Churches Conservation Trust shall transmit copies of the said accounts and report to the Secretary of State and the Secretary of State shall lay copies thereof before each House of Parliament and the Commissioners shall transmit copies of the said accounts and report to the Secretary General of the General Synod and the Secretary General shall lay copies thereof before the General Synod.”.

**Commencement Information**

**I47** Sch. 4 para. 11 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

12 In section 48 the words “and confirmed” shall be omitted.

**Commencement Information**

**I48** Sch. 4 para. 12 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

13 In section 49(1) there shall be added at the end the following proviso—

“(iii) the Commissioners may proceed forthwith with the making of a redundancy scheme which provides for the care and maintenance of the redundant building by the Churches Conservation Trust under section 51(1)(b).”.

**Commencement Information**

**I49** Sch. 4 para. 13 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

14 In section 50—

- (a) in subsection (3) after the word “Commission” there shall be inserted the words “, English Heritage, the Joint Committee of the National Amenity Societies ”;
- (b) in subsection (6) the words after “make the scheme” to the end shall be omitted;
- (c) in subsection (7) the words “or to withdraw a scheme owing to an unforeseen change in circumstances before it has been confirmed by Order in Council” shall be omitted;
- (d) subsection (8) shall be omitted; and
- (e) for subsection (9) there shall be substituted the following subsection—

“(9) Sections 10 and 11 shall apply, with the necessary modifications, to schemes under this section as they apply to pastoral schemes.”.

**Commencement Information**

**I50** Sch. 4 para. 14 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

15 In section 51—



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- (a) in subsection (1)(d) there shall be added at the end the words “ either by the Commissioners or by the diocesan board of finance ”; and
- (b) in subsection (4)(a) and (c), after the word “Commissioners” there shall be inserted the words “ or the diocesan board of finance, as the case may be, ”.

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**Commencement Information**

**I51** Sch. 4 para. 15 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

16 For section 52 there shall be substituted the following section—

**“52 Application of remainder of proceeds of sales and other disposals**

The Commissioners shall allocate the moneys comprised in the remaining one-third of the net proceeds and net premiums, or the balance thereof, mentioned in sections 46(1) and 51(5), in such proportions as they may determine between the Churches Conservation Trust, the redundant churches temporary maintenance account and the diocesan pastoral accounts of such dioceses as they may determine, subject in the case of any amounts allocated to the Churches Conservation Trust, to any order made under section 53(1).”

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**Commencement Information**

**I52** Sch. 4 para. 16 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

17 In section 57(1) for the words “, made and confirmed” there shall be substituted the words “ and made ” and for the words “subsections (8) and (9)” there shall be substituted the words “ subsection (9) ”.

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**Commencement Information**

**I53** Sch. 4 para. 17 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

18 In section 59 after subsection (2) there shall be inserted the following subsection—

“(2A) Where a redundancy scheme or pastoral scheme to which section 46 or 47 applies provides for land annexed or belonging to a redundant building to be appropriated to use as the site for a parsonage house or part thereof or as parsonage land the land shall on the date when any such provision comes into operation vest in the incumbent of the benefice in which the land is situated as property of the benefice and without any conveyance or further assurance.”.

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**Commencement Information**

**I54** Sch. 4 para. 18 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

19 In section 60 at the end there shall be added the following subsection—

“(3) Where rights of way or other easements have been acquired by the Commissioners under section 60A and the land for the benefit of which the

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rights were acquired vests in the Churches Conservation Trust by virtue of this Measure those rights shall also vest in the Trust.”.

**Commencement Information**

**I55** Sch. 4 para. 19 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

20 After section 60 there shall be inserted the following section—

**“60A Acquisition of rights of way and other easements**

Where the Commissioners consider that it is necessary or appropriate to acquire any right of way or other easement for the benefit of land which has vested or is to vest in the Churches Conservation Trust by virtue of this Measure or is to be disposed of by them under this Measure they may acquire the right of way or easement in question.”.

**Commencement Information**

**I56** Sch. 4 para. 20 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

21 For section 77(4) there shall be substituted the following subsection—

“(4) Every diocesan board of finance shall lay a copy of the account prepared under this section before the diocesan synod.”.

**Commencement Information**

**I57** Sch. 4 para. 21 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

22 In section 78A(2) after the word “pending”, in each place where it occurs, there shall be inserted the words “ the making or ”.

**Commencement Information**

**I58** Sch. 4 para. 22 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

23 After section 80 there shall be inserted the following section—

**“80A Power of Commissioners to seek information and give advice**

- (1) The Commissioners may at any time seek information from, and give advice to, a pastoral committee, a diocesan board of finance or a diocesan redundant churches uses committee on any matter concerning its functions under this or any other Measure, and the committee or board concerned shall provide any such information and have regard to any such advice.
- (2) The advice referred to in subsection (1) may, if the Commissioners think fit, be contained in a code or codes of practice.”.

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**Commencement Information**

**I59** Sch. 4 para. 23 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 24 In section 87(1)—
- (a) after the definition of “endowments” there shall be inserted the following definition—

““English Heritage” means the Historic Buildings and Monuments Commission for England known as English Heritage;”;
  - (b) after the definition of “local planning authority” there shall be inserted the following definition—

““National Amenity Societies” means the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings, The Twentieth Century Society 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 purposes of this Measure;”;
  - (c) in the definition of “pastoral scheme” the words “and confirmed by Order in Council” shall be omitted.

**Commencement Information**

**I60** Sch. 4 para. 24 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 25 In Schedule 2—
- (a) in paragraph 1 for the words “subsection (1) of that section” there shall be substituted the words “section 8(1A)” and for the word “Clerk” there shall be substituted the word “Registrar”;
  - (b) in paragraph 3 for the first sentence there shall be substituted the following sentence “If the Registrar of the Privy Council is satisfied that a notice has been given by a person who has duly made representations with respect to the scheme in question he shall so notify the applicant and the Commissioners.”;
  - (c) in paragraph 4 for the word “Clerk” there shall be substituted the word “Registrar” and for the words “9(1)(a)” there shall be substituted the words “8(1A)”;
  - (d) in paragraph 5 the words “the Clerk of the Privy Council” shall be omitted; and
  - (e) in paragraph 6 for the words “9(1)(a)” there shall be substituted the words “8(1A)”.

**Commencement Information**

**I61** Sch. 4 para. 25 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

- 26 In Schedule 3—
- (a) in paragraph 4(5) for the words from “such period” to “relates” there shall be substituted the words “the period of five years from the date of the

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establishment of the team ministry or group ministry to which the pastoral scheme or instrument relates or such lesser period as may be specified in the scheme or instrument as the case may be ”;

- (b) in paragraph 9(3) for the words “for a vicar in a team ministry or an assistant curate” there shall be substituted the words “ for any person declared by the bishop to be engaged in the cure of souls within the diocese ”; and
- (c) in paragraph 13(2) for the words from “such period” to “operation” there shall be substituted the words “ the period of five years from the date on which the scheme or order, as the case may be, came into operation, or such lesser period as may be specified in the scheme, order or instrument ”.

#### Commencement Information

**I62** Sch. 4 para. 26 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

## SCHEDULE 5

Section 10

### REPEALS

#### Commencement Information

**I63** Sch. 5 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

<i>Measure</i>	<i>Extent of repeal</i>
1960 (8 & 9 Eliz. 2 No. 2) Church Property (Miscellaneous Provisions) Measure 1960	In section 20, subsection (4).
1972 No. 2, Repair of Benefice Buildings Measure 1972	Section 18. In Schedule 1, paragraphs 2(6) and (7) and 3(b).
1975 No. 1, Church Commissioners (Miscellaneous Provisions) Measure 1975	Section 2.
1976 No. 4, Endowments and Glebe Measure 1976	In section 26, subsection (3).
1983 No. 1, Pastoral Measure 1983	In section 50, subsection (8).
2000 No. 1, Church of England (Miscellaneous Provisions) Measure	In Schedule 2, paragraph 6. In Schedule 4, paragraph 7. In Schedule 5, paragraphs 5(d) and 7(b). In Schedule 6, paragraphs 4 and 5(b).

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**Changes to legislation:**

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