



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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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)

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.

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Section 7 of the Diocesan Stipends Funds Measure 1953 (1 & 2 Eliz. 2 No. 2) is hereby repealed.

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.”.

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.

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.

Commencement Information

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

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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)

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

^{F1}8 Amendment of Pastoral Measure 1983

Textual Amendments

F1 S. 8 repealed (1.7.2012) by [Mission and Pastoral Measure 2011 \(No. 3\)](#), s. 112(3), [Sch. 9](#) (with [ss. 100, 105\(4\), 107, 108\(6\), Sch. 8](#)); [S.I. 2012/1](#), art. 2

Commencement Information

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

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.

Commencement Information

I9 S. 9 in force at 1.9.2005 by [S.I. 2005/2](#), Instrument made by Archbishops

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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.

Commencement Information

I10 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.

Commencement Information

I11 S. 11 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

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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)

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.

Commencement Information

I12 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;”.

Commencement Information

I13 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 ”.

Commencement Information

I14 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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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)

Commencement Information

I15 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

I16 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

I17 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

I18 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

I19 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

I20 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

I21 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

I22 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

I23 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

I24 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

I25 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.

Commencement Information

I26 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.

Commencement Information

I27 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

I28 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.”

Commencement Information

I29 Sch. 2 para. 11 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

Status: Point in time view as at 01/07/2012.

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)

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

I30 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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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)

Commencement Information

I31 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**”.

Commencement Information

I32 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.

Commencement Information

I33 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”.

Commencement Information

I34 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).

Commencement Information

I35 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.

Commencement Information

I36 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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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)

Commencement Information

I37 Sch. 3 para. 8 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

F²SCHEDULE 4

Section 8

Textual Amendments

F2 Sch. 4 repealed (1.7.2012) by Mission and Pastoral Measure 2011 (No. 3), s. 112(3), Sch. 9 (with ss. 100, 105(4), 107, 108(6), Sch. 8); S.I. 2012/1, art. 2

SCHEDULE 5

Section 10

REPEALS

Commencement Information

I38 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).

Status:

Point in time view as at 01/07/2012.

Changes to legislation:

There are currently no known outstanding effects for the Church of England (Miscellaneous Provisions) Measure 2005.