

Status: Point in time view as at 01/06/2005.

Changes to legislation: There are currently no known outstanding effects for the Church of England (Miscellaneous Provisions) Measure 2005, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Section 8

AMENDMENT OF PASTORAL MEASURE 1983

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

Commencement Information

I1 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

I2 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

I3 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

I4 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

I5 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

I6 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

I7 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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Commencement Information

I8 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

I9 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) ”.

Commencement Information

I10 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

I11 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

I12 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

I13 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

I14 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, ”.

Commencement Information

I15 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).”

Commencement Information

I16 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) ”.

Commencement Information

I17 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.”.

Commencement Information

I18 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

I19 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

I20 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

I21 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

I22 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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I23 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

I24 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

I25 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

I26 Sch. 4 para. 26 in force at 1.6.2005 by S.I. 2005/2, Instrument made by Archbishops

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