



Mission and Pastoral Measure 2011

2011 No. 3

PART 3

PROCEDURE FOR MAKING PASTORAL SCHEMES AND PASTORAL
ORDERS OTHER THAN PASTORAL CHURCH BUILDINGS SCHEMES

5 Introduction

This Part contains provisions relating to the procedure for making pastoral schemes other than pastoral church buildings schemes and pastoral orders.

Procedure for schemes and orders affecting a single diocese

6 Formulation and submission to bishop of draft proposals

- (1) Before deciding to make any recommendations to the bishop, the mission and pastoral committee shall so far as may be practicable ascertain the views of the interested parties or invite them to express their views.
- (2) Subject to subsection (3) in this Part “interested parties”, in relation to any recommendations, proposals or draft scheme or order, means—
 - (a) incumbents of any benefices which would be affected by the implementation thereof, including vicars in a team ministry established for the area of any such benefice;
 - (b) the patrons of any such benefices;
 - (c) the parochial church councils of any parishes which would be so affected;
 - (d) the priests in charge of any conventional districts wholly or partly within the area of any benefices which would be so affected and the parochial church councils of such districts; and
 - (e) the archdeacons and rural deans of any archdeaconries and deaneries which would be so affected or to which any such benefices or parishes belong and the lay chairmen of the deanery synods of any such deaneries.

For the purposes of this subsection a change in the patronage of a benefice shall be deemed to affect that benefice and the parish or parishes of the benefice and, in the case of a parish of a parish church cathedral, the reference in paragraph (c) to a parochial church council shall be construed as a reference to the Chapter of the cathedral.

- (3) In this Part “interested parties”, in relation to any recommendations, proposals, draft scheme or order which are or is limited to creating, altering or dissolving archdeaconries or deaneries, or altering the name of any archdeaconry or deanery, means—
- (a) the parochial church councils of any parishes for which a change of archdeaconry or deanery, or an alteration of the name thereof, is contemplated or proposed and the parochial church councils of any conventional districts wholly or partly within such parishes;
 - (b) the incumbents of benefices to which such parishes belong and the priests in charge of such districts; and
 - (c) the archdeacons and rural deans of the archdeaconries and deaneries affected and the lay chairmen of the deanery synods of such deaneries.

Where a team ministry is established for the area of a benefice, the reference in paragraph (b) to the incumbents of benefices shall in relation to that benefice be construed as a reference to all the persons who constitute the team under section 34(1).

- (4) Where any recommendations, proposals, draft scheme or order relate or relates to any person holding office under Common Tenure whose office would or might be abolished if they or it took effect and any such person is entitled to receive a stipend or other emoluments of office including any provision of accommodation, that person shall be deemed to be an interested party for the purposes of this Part.
- (5) In the case of interested parties, being incumbents or vicars in a team ministry or a person referred to in subsection (4), the mission and pastoral committee shall, before reaching its decision, afford to each such person, if he or she so desires, an opportunity of meeting the committee or a sub-committee or representative thereof, but, in the case of a recommendation for a union of benefices or otherwise for the dissolution of any benefice or holding in plurality of any benefices, or the establishment of a team or group ministry for any benefice or benefices, or the abolition of any office of vicar in a team ministry, the incumbent of the benefice or each of the benefices or the holder of the office of vicar shall have an opportunity of meeting the committee (as distinct from a sub-committee or representative of the committee), if he or she so desires.
- (6) In the case of interested parties, being parochial church councils, the committee shall, before reaching its decision, afford to each council or their representative, if the council so requests, an opportunity of meeting the committee or, if the committee so decides, a sub-committee thereof or, with the consent of the council, a representative of the committee.
- (7) When the committee has decided to make recommendations, it shall formulate them in draft proposals and submit them to the bishop, and the bishop may, with the agreement of the committee, make such amendments to the draft proposals as appear to him desirable.
- (8) The committee shall annexe to the draft proposals formulated by it a statement of the views of the interested parties.

- (9) In this section “incumbent”, in relation to a benefice in respect of which a suspension period has been declared and is for the time being in force, means the priest in charge thereof.

7 Approval by bishop of draft proposals and preparation of draft scheme

- (1) If the bishop approves, either with or without amendments, draft proposals submitted to him under section 6(7) he shall return the draft proposals to the mission and pastoral committee, with any amendments, for the preparation of a draft scheme or order.
- (2) Where the draft proposals approved by the bishop under subsection (1) contain recommendations for any of the matters contained in sections 31 and 32 and 34 to 36 the mission and pastoral committee shall send a copy of the proposals to the registered patrons of any of the benefices concerned and inform them that if the benefice is or becomes vacant section 87(1) will apply in relation to the benefice.
- (3) On receipt of the draft proposals the mission and pastoral committee shall prepare a draft scheme or order giving effect to the draft proposals, with any amendments, and shall submit the draft scheme or order to the Commissioners, together with the statement referred to in section 6(8).

8 Consideration of draft scheme or order by Commissioners

- (1) On receipt of a draft scheme or order submitted to them under section 7 the Commissioners shall consider whether the draft scheme or order is in the correct form and is within the powers conferred on the bishop and the mission and pastoral committee and whether the procedures set out in sections 6 and 7 have been properly applied.
- (2) Where the Commissioners consider that, in accordance with subsection (1), any amendments should be made to the draft scheme or order, they may make such amendments as they think appropriate.
- (3) If the Commissioners make any such amendments they shall, unless they consider that the amendments are such as are described in section 19(2), refer the draft scheme or order, with their amendments, together with an explanation of the reasons for the amendments, to the mission and pastoral committee for further consideration.
- (4) The mission and pastoral committee shall, after consulting the bishop, consider the draft scheme or order, as amended by the Commissioners, and may, with the agreement of the bishop, make any amendments which it thinks fit, after taking account of the Commissioners’ amendments.
- (5) The mission and pastoral committee shall, after considering the draft scheme or order in accordance with subsection (4), re-submit it to the Commissioners, with any amendments, together with an explanation of the action which it has taken on the Commissioners’ amendments and subsection (2) and, if appropriate, subsections (3) and (4) and this subsection shall apply to any such draft scheme or order.
- (6) If the Commissioners consider that it is not possible to amend the draft scheme or order in a way which would enable it to proceed in the correct form or that the procedures set out in sections 6 and 7 have not been properly applied they shall return it to the mission and pastoral committee for further consideration.

- (7) If the draft scheme or order is returned to the mission and pastoral committee under subsection (6), the mission and pastoral committee shall take no further steps in relation to the draft scheme or order but shall, after consulting the bishop, consider whether to make new recommendations under section 6 or prepare a new draft scheme or order under section 7 or take any further steps specified by the Commissioners.
- (8) If the Commissioners do not refer the draft scheme or order to the mission and pastoral committee for further consideration as provided above, they shall return the draft scheme or order to the mission and pastoral committee to proceed with the draft scheme or order under section 9.

9 Notice and publication of draft schemes or orders

- (1) The mission and pastoral committee shall serve a copy of any draft scheme or order prepared under section 7 on each of the interested parties and the Commissioners, together with a notice stating that written representations with respect thereto may be made to the Commissioners not later than a date specified in the notice, being a date not less than twenty-eight days after the service of the notice.
- (2) If a draft scheme is a scheme to which section 44 applies the mission and pastoral committee shall—
 - (a) also serve a copy thereof on the Commonwealth War Graves Commission; and
 - (b) publish in one or more newspapers circulating in the locality affected by the scheme a notice stating the objects of the draft scheme and naming a place or places within the locality where a copy thereof may be inspected, and stating that written representations with respect to the draft scheme may be made to the Commissioners not later than a date specified in the notice, being a date not less than twenty-eight days after the first publication of the notice in such a newspaper.
- (3) The mission and pastoral committee shall, in the case of every draft scheme or order, send copies of such a notice as is mentioned in subsection (2), but specifying a date not less than twenty-eight days after the sending of the notices to the secretary of the parochial church council of every parish affected by the draft scheme or order, and require him or her to affix a copy on or near the principal door of every church in the parish and every building licensed by the bishop for public worship in the parish (including any building referred to in section 80(13) or (14)).
- (4) The Commissioners shall consider any written representations duly made with respect to any draft scheme or order and may, if they think fit, afford an opportunity to any person, whether he or she has made written representations or not, to make oral representations with respect to the draft scheme or order.
- (5) The Commissioners may, before or after the end of the period within which written representations may be made under this section, extend that period, and any representations made within the period so extended shall be deemed to be duly made.

10 Amendment of draft schemes or orders

- (1) The Commissioners—
 - (a) at the request of the bishop made after consultation with the mission and pastoral committee, or
 - (b) as a result of any representations,

may, at any time after a copy of the draft scheme or order has been served on them under section 9(1), amend any draft scheme or order prepared by the committee under this Part, but any amendments made as a result of any representations shall only be made with the agreement of the bishop given after consultation with the committee.

- (2) If any such amendments, other than any amendments which, in the opinion of the Commissioners, are such as are described in section 19(2), are made, the amended draft scheme or order shall be treated in the same manner as an original draft scheme or order, and section 9 shall apply accordingly.

11 Making of schemes or orders

- (1) Where no representations with respect to any such draft scheme have been duly made and the Commissioners are of the opinion that any such draft scheme should be made, and do not propose to amend or further amend it under section 10, they shall submit it to the bishop for his consent and, when he has given his consent, they shall seal a copy of the draft scheme and so make the scheme.
- (2) Where representations with respect to any such draft scheme have been duly made and the Commissioners, having considered those representations, are of the opinion that the draft scheme should be made, and do not propose to amend or further amend it under section 10, 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.
- (3) A notice under subsection (2) 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.
- (4) When serving notice under subsection (2) 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.
- (5) Where no representations with respect to any such draft order have been made and the Commissioners are of the opinion that the draft order should be made and do not propose to amend or further amend it under section 10, the Commissioners shall issue a certificate to that effect and submit the draft order and the certificate to the bishop.
- (6) Where representations with respect to any such draft order have been made, then, unless—
- (a) as a result of those representations, the Commissioners decide that the order should not be made, or
 - (b) the Commissioners propose to amend or further amend the draft order under section 10,
- they shall issue a certificate to that effect and submit the draft order and the certificate to the bishop.

- (7) Where a draft order is submitted to the bishop under this section, he may by applying his seal thereto make the order.

12 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 11(2), 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 11(2)(a),
- the Commissioners shall seal a copy of the draft scheme and so 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 shall seal a copy of the draft scheme and so 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, 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
 - (c) amend the draft scheme with the agreement of the bishop given after consultation with the mission and 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 may, without any further hearing, 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 10 and the provisions of this Part shall apply accordingly.

13 Transmission of copies of scheme or order

- (1) The mission and pastoral committee shall send a copy of every scheme made by the Commissioners under this Part and of every order made by the bishop under section 11(7) to the interested parties.
- (2) The mission and pastoral committee shall also send a copy of every such scheme or order to the registrar of the diocese concerned, who shall file it in the diocesan registry.

14 Validity and operation of schemes and orders

- (1) The validity of a scheme made by the Commissioners under this Part, or of an order made under this Part, shall not be questioned in any legal proceedings.
- (2) Except in so far as any such scheme or order, or any provision thereof, is expressed to come into operation on a date, event or contingency specified therein it shall come into operation on the date on which the scheme is made by the Commissioners or, as the case may be, the order is made by the bishop under section 11(7).

Modified procedure for schemes and orders affecting more than one diocese

15 Limited extension of diocesan proposals and schemes to other dioceses

- (1) The mission and pastoral committee of any diocese may include in recommendations made by them such recommendations affecting another diocese as are capable of implementation by the exercise of the powers specified in section 49 and such recommendations and a scheme or order to implement them may be proceeded with and made under and in accordance with the foregoing provisions of this Measure, subject to the following conditions—
 - (a) before ascertaining the views of any of the persons who would be interested parties as a result of the recommendations affecting the other diocese, the mission and pastoral committee shall obtain the consent of the bishop of that other diocese to the consideration of those recommendations and he shall, before giving his consent, consult the mission and pastoral committee of his diocese;
 - (b) the bishop of the first-mentioned diocese shall not take any action in relation to such recommendations under section 7(1) without the consent of the bishop of the other diocese.
- (2) The powers conferred by subsection (1) may be used to include recommendations affecting more than one other diocese, and in that case the conditions specified in subsection (1) shall be complied with in relation to each of the other dioceses.

16 Joint boundary committees

- (1) If it appears to the bishops of two or more dioceses that a committee should be constituted for the purpose of considering the boundaries of the dioceses concerned and the pastoral arrangements in the areas adjacent thereto and of making recommendations (if the committee so decide) the implementing of which would require the exercise of powers under section 50, then, if the Dioceses Commission gives its consent, they may by an instrument sealed by each of them provide for constituting a committee in accordance with subsection (2).

- (2) The committee shall be known as the joint boundary committee for the dioceses concerned, and shall comprise an equal number of members not exceeding five from each diocese, together with a member of the Dioceses Commission nominated by that Commission and a chairman appointed by the bishops jointly, or, in default of their agreement, by the Commissioners; and the members from any diocese shall include the bishop if he so desires and shall otherwise be nominated by the mission and pastoral committee of the diocese concerned from among its members.
- (3) Without prejudice to the provisions of section 19(3), the functions of the joint boundary committee, and the powers exercisable in pursuance of their proposals under section 50, may be limited by the instrument referred to in subsection (1) or any subsequent instrument sealed by the bishops of the dioceses concerned to a specified section or sections of the boundaries of the dioceses concerned or to a specified area or specified areas, or to the consideration of proposals or questions so specified relating to those boundaries or areas, but any such limitation may be revoked or varied by a subsequent instrument sealed by the bishops of the dioceses concerned.
- (4) The instrument which provides for the establishment of a joint boundary committee may also make such provision as the bishops of the dioceses concerned think fit for the procedure of the committee and any such provision as is referred to in subsection (5) and, when deciding whether to make any such provision, and, if so, what provision, the bishops shall have regard to the provisions of Schedule 1.
- (5) The provision referred to in subsection (4) is provision for paying the expenses of the joint boundary committee out of the diocesan pastoral accounts of the dioceses concerned.
- (6) Any recommendations made by the joint boundary committee shall be made to the bishops of the dioceses concerned, and section 6 shall apply to any such recommendations and their formulation and submission in draft proposals in like manner as it applies to the recommendations and draft proposals of the mission and pastoral committee of a diocese, and the like proceedings may be taken on such proposals under sections 6 to 13 as may be taken on proposals formulated and submitted by a mission and pastoral committee, subject to the following modifications—
 - (a) anything required or authorised to be done by or to the bishop or registrar of the diocese shall be required or authorised to be done by or to the bishops or registrars of the dioceses concerned; and
 - (b) no action may be taken to prepare or implement such proposals by way of a draft order or orders.
- (7) If it appears to the bishops of the dioceses concerned that the purposes for which a joint boundary committee was appointed have been sufficiently fulfilled, either by the making of a scheme or by a report or otherwise, or are unlikely to be fulfilled, they may by instrument sealed by them dissolve the committee.

Supplementary

17 Power of bishop to formulate and submit proposals on certain matters

- (1) If the bishop is of the opinion after consultation with the mission and pastoral committee that proposals which could be implemented under this Part by a pastoral

order should be so implemented and the interested parties have consented to the proposals, then—

- (a) the mission and pastoral committee shall prepare a draft order to give effect to the proposals and submit it to the bishop for his approval;
 - (b) the bishop may, by applying his seal thereto, make the order under section 11(7); and
 - (c) the mission and pastoral committee shall send to the Commissioners and the interested parties a copy of any order made under this subsection.
- (2) Any interested party which does not object to the proposals shall be deemed to have consented to the proposals if the interested party has been provided with a copy of the proposals and notified in writing by the mission and pastoral committee—
- (a) that the mission and pastoral committee should be informed in writing whether or not the interested party objects to the proposals within the period, not less than twenty-eight days after the service of the notice, specified in the notice,
 - (b) that, if the interested party does not inform the mission and pastoral committee as required by paragraph (a), that party will be deemed to have consented to the proposals, and
 - (c) that, if every interested party consents or is deemed to consent to the proposals, the mission and pastoral committee may proceed with the preparation of a draft order to give effect to the proposals, and the bishop may make the order, without further consultation.
- (3) Proposals submitted under subsection (1) may provide for including among any benefices to be held in plurality one or more benefices from a diocese other than the diocese of the bishop submitting the proposals, but before seeking the consents of the interested parties in the other diocese, the said bishop shall obtain the consent of the bishop of the other diocese, who shall before giving it consult the mission and pastoral committee of his diocese.

18 Withdrawal of scheme or order at request of bishop

If the bishop of the diocese concerned or, in a case to which section 15, 16 or 17(3) applies, the bishops of the dioceses concerned, consider that any proposals or draft scheme or order should not be proceeded with, he or they may, after consulting the mission and pastoral committee or committees or (in a case to which section 16 applies) the joint boundary committee for the dioceses concerned, direct the committee or committees or, if a draft scheme or order is being considered by the Commissioners under section 8 or the Commissioners have been notified of a draft scheme or order under section 9(1), the Commissioners, not to proceed with the proposals or draft scheme or order, as the case may be, but without prejudice to the making of fresh proposals.

19 Supplementary powers of Commissioners, mission and pastoral committees and joint boundary committees

- (1) The mission and pastoral committee may—
- (a) at any time before it gives notice to the Commissioners of a draft scheme or order under section 9(1), except at any time after the draft scheme or order has been submitted to the Commissioners under section 7(3) and before the Commissioners have discharged their functions under section 8, or

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- (b) where the mission and pastoral committee proceeds with the preparation of a draft order under section 17, at any time,
make such amendments to the proposals or the draft scheme or order as may appear to the committee to be necessary for the purpose of correcting any drafting mistake or omission.
- (2) The Commissioners may—
 - (a) at any time after a draft scheme or order has been submitted to them under section 7(3) and before the Commissioners have discharged their functions under section 8, or
 - (b) at any time after notice is given to the Commissioners of a draft scheme or order under section 9,
make such amendments to the draft scheme or order as may appear to the Commissioners to be necessary for the purpose of correcting any drafting mistake or omission.
- (3) Nothing in this Part shall be construed as limiting in any way the powers of a mission and pastoral committee or a joint boundary committee or the Commissioners to consider any representations made to them by any person and to hold such consultations and interviews and make such inquiries as they think fit.