



# Mission and Pastoral Measure 2011

2011 No. 3

## PART 6

### BUILDINGS CLOSED FOR REGULAR PUBLIC WORSHIP

#### *Pastoral (church buildings disposal) schemes*

#### **63 Contents of pastoral (church buildings disposal) schemes**

- (1) A pastoral (church buildings disposal) scheme shall make the following provision for the building closed for regular public worship, that is to say—
- (a) if a use or uses appearing to the Commissioners to be suitable have been found for the building or any part of it, the scheme may provide for appropriating the building or part to such use or uses, which shall be specified or generally described in the scheme;
  - (b) if such use or uses cannot be found for the building or a part of it and it appears to the Commissioners—
    - (i) after consultation with the Church Buildings Council through its Statutory Advisory Committee that the building is of such historic and archaeological interest or architectural quality that it ought to be preserved in the interests of the nation and the Church of England; and
    - (ii) that the Churches Conservation Trust will have the resources to meet the cost of repairing and maintaining it,the scheme may provide for its care and maintenance by the Trust.
  - (c) if the building or any part of it is not appropriated or provided for under paragraph (a) or (b) the scheme may, with the consent of the diocesan board of finance, provide for the building or any part of it to remain vested in that board and to be held by them on such terms as may be specified in the scheme;
  - (d) if the building or any part of it is not appropriated or provided for under paragraphs (a) to (c), the scheme shall provide for its demolition either by the Commissioners or by the diocesan board of finance.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Where a pastoral (church buildings disposal) scheme provides for the appropriation of the building closed for regular public worship or any part of it to a use or uses specified or described in the scheme, the scheme may also provide—
- (a) for appropriating the whole or any part of the land annexed or belonging to the building or the church of which it forms part, to a use or uses so specified or described;
  - (b) for empowering the diocesan board of finance itself to use or hold the property concerned for the use or uses so specified or described or to let or license the property for such use or uses or partly the one and partly the other;
  - (c) for empowering the Commissioners or the diocesan board of finance, subject to any conditions prescribed by the scheme, to sell, give or exchange the property concerned or any part of it for such use or uses.
- (3) Where a pastoral (church buildings disposal) scheme provides for the building closed for regular public worship or any part of it to remain vested in the diocesan board of finance, the scheme may also provide—
- (a) for appropriating the whole or any part of the land annexed or belonging to the building, or the church of which it forms part, to a use or uses specified or described in the scheme;
  - (b) for empowering the board itself to use or hold that land or any part of it for the use or uses so specified or described or to let or license it for such use or uses or partly the one and partly the other;
  - (c) for empowering the Commissioners, subject to any conditions prescribed by the scheme, to sell, give or exchange that land or any part of it for such use or uses;
  - (d) for transferring to the board responsibility for the care and maintenance of that land or any part of it;
- and the scheme may provide as mentioned in paragraph (d) notwithstanding that the land is or has been used for burials.
- (4) Where a pastoral (church buildings disposal) scheme provides for the demolition of the building closed for regular public worship or any part of it, it may also provide—
- (a) for the sale, gift, exchange or lease by the Commissioners or the diocesan board of finance, as the case may be, of the site or part of the site of the demolished building or part of the building, with or without the whole or any part of the land annexed or belonging to the building or to the church of which it forms part;
  - (b) for the disposal of the materials arising from the demolition;
  - (c) for specifying the use or uses for which any land sold, given, exchanged or let by the Commissioners or the diocesan board of finance, as the case may be, is to be used or allowing it to be used without limitation;
  - (d) for appropriating the site or any part of it for use as part of the churchyard or burial ground or for other ecclesiastical purposes of the parish.
- (5) The proceeds of any sale or exchange under subsection (2), (3) or (4) and the premiums on any lease or licence under those subsections shall be paid to the Commissioners, who, subject to subsections (6), (7), (8) and (9) and to an appropriate order made under section 65(1)(b), shall pay two-thirds of the net proceeds and net premiums to the diocesan pastoral account and shall apply the remaining one-third in accordance with section 64, and the net rent payable under any such lease or licence shall be paid into the said account.

- (6) Where in exercise of the power conferred on the Churches Conservation Trust by section 57(14) the Trust has contributed to the cost of the care and maintenance of a church or part of a church, then, unless that church or part is vested in the Trust, the sum contributed by the Trust under that subsection, or so much of it as the Commissioners may, with the agreement of the Secretary of State, determine, shall be repaid to the Trust by the Commissioners out of the proceeds of any sale or exchange, or the premium on any lease or licence, of that church or part or the site thereof under subsection (2), (3) or (4) before the net proceeds or net premiums, as the case may be, are paid or applied in accordance with subsection (5).
- (7) Where in exercise of the power referred to in subsection (6) the Churches Conservation Trust has contributed to the cost of the care and maintenance of a church or part of a church, not being a church or part which is vested in the Trust, and the church or part or the site thereof is let or licensed by the diocesan board of finance under subsection (2), (3) or (4) or let by the Commissioners under subsection (4), the net rent from time to time paid under those subsections shall be paid by the said board or the Commissioners, as the case may be, to the Trust until the sum contributed by the Trust, or so much of it as the Commissioners may, with the agreement of the Secretary of State, determine, has been repaid to the Trust out of such rent.
- (8) Where before a declaration of closure for regular public worship was made in respect of a church or part of a church that church or part was the subject of a sharing agreement under the Sharing of Church Buildings Act 1969, and on the termination of the agreement it was vested in an incumbent by section 9(3) of that Act, any contribution in the nature of capital made in accordance with the agreement by any party thereto, other than a party acting on behalf of the Church of England, or so much of it as the Commissioners may determine, may be repaid to that party by the Commissioners out of the proceeds of any sale or exchange, or the premiums of any lease or licence, of that church or part or the site thereof under subsection (2), (3) or (4) before the net proceeds or net premiums, as the case may be, are paid or applied in accordance with subsection (5).
- (9) Where a pastoral church buildings scheme makes a declaration of closure for regular public worship in respect of a church and the Commissioners are satisfied that a new church or place of worship is to be provided in the area of the benefice in which the first-mentioned church is situated to take the place of that church, then, if any subsequent pastoral (church buildings disposal) scheme which makes provision, within the period of three years from the declaration of closure or such longer period as the Commissioners may allow, for the building closed for regular public worship also provides for any of the matters authorised to be included in the scheme by subsection (2)(b) or (c), subsection (3)(b) or (c) or subsection (4)(a) or (b)—
  - (a) the proceeds of any sale or exchange made, and the premiums of any lease or licence granted, by virtue of those provisions shall be paid to the Commissioners in accordance with subsection (5) of this section, but
  - (b) the net proceeds and net premiums shall be applied in accordance with section 58(1)(c) and not in accordance with subsection (5).
- (10) In negotiating the sale or other disposal of any property under subsection (2), (3) or (4), the Commissioners shall consult the diocesan board of finance.
- (11) Where a pastoral (church buildings disposal) scheme makes provision for any land which has been used for burials, that provision shall have effect notwithstanding section 3 of the Disused Burial Grounds Act 1884 (which prohibits the erection of

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buildings upon disused burial grounds), if one or other of the following conditions is satisfied, namely—

- (a) that no person has been buried in any of the land during the period of 50 years immediately before the making of the scheme, or
- (b) that no relative or personal representative of a deceased person buried in the land during that period has objected to the draft scheme, or all such objections have been withdrawn,

and the said section shall otherwise apply.

- (12) Where a pastoral (church buildings disposal) scheme provides for the care and maintenance of the building closed for regular public worship or any part of it by the Churches Conservation Trust, the scheme may also provide for the care and maintenance by the Trust of the whole or any part of the land annexed or belonging to the building or the church of which the building is part, and may so provide notwithstanding that the land is or has been used for burials.
- (13) For the purposes of this section and of sections 58 and 59, and without prejudice to the generality of the provisions thereof, the use of a building or part of a building for such special or occasional religious worship as may be authorised by the bishop, or its use as a place of religious worship for a university, college, school or other institution, or its use for religious worship by any Church other than the Church of England, shall be a use to which a building closed for regular public worship or a part of it may be appropriated by a pastoral church buildings or pastoral (church buildings disposal) scheme, and the consent of the incumbent or priest in charge of the benefice in the area of which the building is situated shall not be required for any such use.
- (14) Section 52 shall apply to pastoral (church buildings disposal) schemes in like manner as it applies to pastoral church buildings schemes, with the omission of the reference to the agreement of the bishop or bishops concerned.