



Mission and Pastoral Measure 2011

2011 No. 3

PART 6

BUILDINGS CLOSED FOR REGULAR PUBLIC WORSHIP

Vesting of property and other supplementary provisions

78 Disposal of human remains

- (1) Where any human remains are believed to be buried in or beneath a building closed for regular public worship or in any land to which a pastoral (church buildings disposal) scheme applies, the body or person in whom the property is vested or to whom it is leased or licensed shall not, subject to this section, demolish, sell, lease or otherwise dispose of it or any part of it, or use it or any part of it, or carry out any development of it or any part of it, unless—
 - (a) as respects the human remains, either the Secretary of State has made an order under subsection (3) in relation to such demolition, use or development or the remains have been removed and reinterred or cremated in accordance with the provisions of Schedule 6; and
 - (b) any tombstones, monuments or memorials commemorating the deceased persons have been disposed of in accordance with those provisions,and (in either case) the other requirements of that Schedule have been complied with.
- (2) The requirements of subsection (1) and of Schedule 6 shall not apply—
 - (a) to a building closed for regular public worship the whole of which is to be used, without any structural alteration, as a place of religious worship for a university, college, school or other institution, or as a private chapel or monument, or for religious worship by a Church other than the Church of England, so long as the whole of it continues to be so used without any structural alteration involving the disturbance of human remains or the removal of any tombstones, monuments or memorials commemorating deceased persons;

Status: This is the original version (as it was originally enacted).

- (b) to any land which remains annexed or belonging to a building closed for regular public worship used as mentioned in paragraph (a);
 - (c) to any land which is to be used as part of a churchyard or burial ground and is vested under section 71(6) in the person in whom the churchyard or burial ground is vested;
 - (d) to any land which is to be used as part of a burial ground and has been conveyed to a burial authority constituted by or under an enactment.
- (3) Where it appears to the Secretary of State that the demolition of a building closed for regular public worship or part thereof, or the intended use or development of any property to which a pastoral (church buildings disposal) scheme applies or any part of such property, will not involve the disturbance of human remains, he or she may, after consultation with the bishop and the Commonwealth War Graves Commission, by order provide for dispensing with the requirements (so far as they concern human remains) of subsection (1) and of Schedule 6 in relation to the demolition of the building or part thereof, or such use or development of the property or part, as may be prescribed by or under the order, subject to such conditions, restrictions, and requirements as may be so prescribed, and in relation to any sale, lease or other disposal of the property for the purpose of such use or development.
- (4) Any order made under subsection (3) may be amended or revoked by a subsequent order made in like manner and subject to the like conditions, and, if at any time the requirements of subsection (1) and of Schedule 6 are complied with in respect of the property, the order shall cease to have effect.
- (5) Where an order is made under this section in respect of any property, a copy of it certified by or on behalf of the Secretary of State to be a true copy, shall be deposited with the registering authority (within the meaning of the Local Land Charges Act 1975 (c. 76)), and the order shall be a local land charge.
- (6) Where, by virtue of any such order, human remains are not removed and reinterred or cremated, the requirements of subsection (1) and of Schedule 6, so far as they relate to the disposal of tombstones, monuments and memorials, shall nonetheless apply.
- (7) Where there is situated in any building or part of a building closed for regular public worship or any land to which a pastoral (church buildings disposal) scheme applies any monument or memorial commemorating a deceased person whose remains are not buried in the building or part of it or land, the body or person in whom the building or part or land is vested or to whom it is leased or licensed shall not demolish, sell, lease or otherwise dispose of it or use it for any use or carry out any development of it, unless the monument or memorial has been disposed of in such manner as the bishop after consultation with the diocesan advisory committee for the care of churches has directed, or the bishop has after such consultation dispensed with this requirement.
- (8) No faculty shall be required for anything done in pursuance of this section or Schedule 6.
- (9) In this section any reference to a pastoral (church buildings disposal) scheme shall include a reference to the provisions of a pastoral scheme or a pastoral church buildings scheme providing for the matters referred to in section 44, 58 or 59.