



# Church Property Measure 2018

2018 No. 8

## PART 2

### GLEBE LAND

#### *Responsibility for land*

#### **16 General functions of DBF**

- (1) It is the function of each DBF to hold, manage and deal with the diocesan glebe land for the benefit of the diocesan stipends fund.
- (2) Each DBF must keep the Church Commissioners informed of—
  - (a) such matters as the Commissioners specify affecting the diocesan glebe land and arising from notices given to the DBF by a public authority or a utility undertaker, and
  - (b) matters concerning transactions affecting the diocesan glebe land.
- (3) The rights appurtenant to or over parsonage land or church land that were having effect by virtue of section 15(2) or (3) of the Endowments and Glebe Measure 1976 immediately before the repeal of that provision by this Measure (being the rights necessary for the reasonable enjoyment of land that were formerly exercisable by the incumbent in right of the benefice in question) continue to have effect in spite of the repeal.
- (4) In the case of diocesan glebe land which is part of the glebe land which vested in the DBF on 1 April 1978 under section 15 of the Endowments and Glebe Measure 1976, the DBF may require the incumbent or sequestrators of the benefice in the area of which the land is situated to provide the DBF with—
  - (a) such information relating to the land as the DBF requires in order to carry out its functions under this Measure;
  - (b) such documents in the possession of, or under the control of, the incumbent or sequestrators concerning the land as the DBF specifies.

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- (5) The county court may, on an application by the DBF for a diocese, make an order requiring a person who has failed to comply with a requirement under subsection (4) to comply with that requirement.
- (6) In the case of diocesan glebe land of the description given in subsection (4) that is subject to a lease which gives the landlord a right to require the tenant to provide information relating to the lease, the DBF may exercise the same right.
- (7) The reference in subsection (4)(b) to documents specified by the DBF includes a reference to documents of a description specified by it.
- (8) Subsection (3) does not affect the general application of section 16 of the Interpretation Act 1978 (general savings on repeal).

### *Management and acquisition*

#### **17 Land management scheme**

- (1) Each scheme prepared by a DBF under section 19 of the Endowments and Glebe Measure 1976 and in force immediately before the commencement of this section is to continue in force; and the scheme is referred to in this Part as a “land management scheme”.
- (2) A land management scheme may provide for one or more committees to carry out functions specified in the scheme relating to management of the diocesan glebe land; and each of the following bodies may serve as such a committee—
  - (a) a committee of the DBF;
  - (b) the Parsonages Board;
  - (c) a committee constituted under the Repair of Benefice Buildings Measure 1972.
- (3) A land management scheme may provide for the establishment of one or more wholly owned subsidiaries of the DBF; and a subsidiary so established is referred to in this Measure as a “management subsidiary”.
- (4) A management subsidiary has, subject to the provisions of the land management scheme, the same powers and duties in relation to holding, managing and dealing with the diocesan glebe land specified in the scheme, or held by the subsidiary, as the DBF has in relation to diocesan glebe land held by it; and references in this Measure to a management subsidiary are to be read accordingly.
- (5) The DBF may, with the approval of the Church Commissioners, vary, revoke or replace a land management scheme by means of a subsequent scheme; and the scheme which has effect as a result of a revocation or replacement becomes the land management scheme.
- (6) “Subsidiary” has the same meaning as in the Companies Act 2006 (see section 1159 of that Act).

## **18 Land management scheme: suspension**

- (1) The Church Commissioners may suspend the operation of one or more provisions of a land management scheme by giving written notice to the DBF if the Commissioners are satisfied that—
  - (a) the scheme is not being complied with, or
  - (b) the scheme is not being operated so as to result in the efficient management of the diocesan glebe land to which it relates.
- (2) A notice under subsection (1) must specify the provisions of the scheme to which the suspension applies.
- (3) The Commissioners must cancel a suspension under this section, by giving written notice to the DBF to that effect, if the DBF satisfies the Commissioners that—
  - (a) the scheme is being complied with, or
  - (b) the DBF has taken the action necessary to ensure that the scheme will be operated so as to result in the efficient management of the land.

## **19 Acquisition and appropriation**

- (1) A DBF or a management subsidiary may acquire land to be held as part of the diocesan glebe land.
- (2) A DBF or a management subsidiary may appropriate for use as diocesan glebe land any land vested in it; and where it does so it holds the land as part of the diocesan glebe land.
- (3) The power under subsection (2) may not be exercised without the consent of the Charity Commission and—
  - (a) if the land is vested in the DBF under section 6(2) of the Parochial Church Councils (Powers) Measure 1956, the consent of the PCC, or
  - (b) if the land is vested in the DBF under section 3 of the Incumbents and Churchwardens (Trusts) Measure 1964, the consent of the managing trustees of the land.
- (4) The power of a management subsidiary under subsection (2) may not be exercised without the consent of the DBF (in addition to the consent or consents required under subsection (3)).

### *Dealings*

## **20 Dealings**

- (1) The power of a DBF or management subsidiary to deal with diocesan glebe land (whether by way of sale, exchange, lease, mortgage, charge or otherwise) is exercisable in accordance with this section and sections 21 and 22.
- (2) The DBF or subsidiary may, if it thinks it necessary, include such terms for safeguarding the amenities of land that will be affected by the proposed transaction as it considers reasonable and proper, having regard to all the circumstances.
- (3) A DBF or management subsidiary may permit a person to reside, without paying rent, in a dwelling house situated on the diocesan glebe land if the bishop of the diocese has declared that the person is engaged in the cure of souls within the diocese.

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- (4) Where a DBF or management subsidiary sells, exchanges or leases diocesan glebe land and the document giving effect to the transaction includes a restrictive covenant imposed for the benefit of church land or parsonage land, the covenant is enforceable by the DBF or subsidiary as if it were the owner of that land.
- (5) A DBF or management subsidiary may grant a short lease of diocesan glebe land only if—
  - (a) it has obtained advice on the proposed transaction from a person who it believes has the necessary ability and practical experience to provide it with competent advice, and
  - (b) having considered the advice, it is satisfied that the terms of the proposed transaction are the best that can be reasonably obtained for the diocese.
- (6) “Short lease” means a lease for a term of no more than seven years which is not granted wholly or partly at a premium.

## **21 Consent to dealings**

- (1) A DBF or management subsidiary may not enter into a transaction for any of the following dispositions of diocesan glebe land without the consent of the Church Commissioners—
  - (a) a sale;
  - (b) an exchange;
  - (c) the grant of a lease wholly or partly at a premium;
  - (d) the grant of a lease for a term of 21 years or more;
  - (e) the grant of a lease of land which, had it not become diocesan glebe land, would be an excluded part of a parsonage house;
  - (f) the grant of a lease or licence, or the making of an agreement, relating to searching for, or working and getting, mines and minerals and any other operation arising from that;
  - (g) the grant of a mortgage or charge.
- (2) The consent of the Commissioners is not required if the disposition is to a management subsidiary for the purposes of a land management scheme.
- (3) The consent of the Commissioners is not required if—
  - (a) the disposition is to a person who is not a connected person or a trustee for or nominee of a connected person, and
  - (b) before making the disposition or, where there is an agreement for the disposition, before entering into the agreement, the DBF or subsidiary has met the condition in subsection (4).
- (4) The condition in this subsection is that the DBF or subsidiary—
  - (a) has obtained a written report on the proposed transaction from a qualified surveyor instructed by and acting exclusively for it,
  - (b) has advertised the proposed transaction for the period and in the manner advised by the surveyor in the report, unless the surveyor has advised in the report that advertising the proposed transaction would not be in the best interests of the diocese, and
  - (c) having considered the report, is satisfied that the terms of the proposed transaction are the best that can be reasonably obtained for the diocese.

- (5) The consent of the Commissioners is not required if the disposition would give effect to the entitlement of a tenant under an enactment—
  - (a) to acquire an interest in the land from the DBF or subsidiary,
  - (b) to be granted an interest in the land by the DBF or subsidiary, or
  - (c) to have an interest in the land renewed or extended.
- (6) The Commissioners may, as a condition of giving consent, require the DBF or subsidiary to include in the document giving effect to the transaction—
  - (a) terms for safeguarding the amenities of land that will be affected by the transaction, and
  - (b) such other provisions as appear to the Commissioners to be necessary.

## **22 Notice of proposed dealing**

- (1) A DBF or management subsidiary may not enter into a transaction for a disposition referred to in section 21(1) unless it has given notice of the nature of the proposed transaction to the relevant persons.
- (2) The relevant persons are, unless subsection (3) or (4) applies—
  - (a) the incumbent of the benefice to which the parish where the land is situated belongs, and
  - (b) the PCC of that parish.
- (3) Where there is a vacancy in the benefice, the relevant persons are—
  - (a) the priest-in-charge appointed for the benefice under section 86 of the Mission and Pastoral Measure 2011 or, if none is so appointed, the churchwardens of the parish in which the land is situated,
  - (b) the PCC of that parish, and
  - (c) if the proposed transaction is the grant of a lease of land which, if it had not become diocesan glebe land, would be an excluded part of a parsonage house, the bishop of the diocese.
- (4) Where a team ministry is established for the benefice, the relevant persons are—
  - (a) every vicar in the team ministry,
  - (b) if the proposed transaction relates to a house occupied by a member of the team, that member, and
  - (c) the PCC of the parish.
- (5) A notice under this section must identify—
  - (a) the land to which it relates, and
  - (b) the easements (if any) over any church land or parsonage land of which that land has the benefit.

## **23 Grants and appropriations**

- (1) A DBF or management subsidiary may grant or appropriate diocesan glebe land—
  - (a) for use as or conversion into a church;
  - (b) as a site for a new church or for enlarging the site of an existing church;

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- (c) for use as a place of worship other than a church, or as a site for a new building to be used as such or for a building to replace a building currently used as such, or for enlarging the site of a building currently used as such;
  - (d) for use as a church hall, or as a site for a new church hall or for a building to replace an existing church hall, or for enlarging the site of an existing church hall;
  - (e) for use as both a church or other place of worship and a church hall, or as a site for a building to be used as such or for enlarging the site of a building currently used as such;
  - (f) as a site for a building to replace a building currently used as both a place of worship other than a church and a church hall;
  - (g) for the provision of a new churchyard or burial ground or for the enlargement of an existing churchyard or burial ground;
  - (h) for use as a parsonage house, or as a site for a building to be used as such or for enlarging the site of a building currently used as such;
  - (i) for occupation as a garden with a parsonage house or with a building to be used as such or for the enlargement of land currently occupied as such;
  - (j) for the provision of access to, or for improving the amenities of, a church or other place of worship, a church hall, a building used as both a church or other place of worship and a church hall, a churchyard or burial ground or a parsonage house;
  - (k) for the provision of vehicle parking space for use in connection with a church or other place of worship, a church hall, a building used as both a church or other place of worship and a church hall, or a churchyard or burial ground.
- (2) The exercise of the power to make a grant or appropriation under this section is not subject to section 21 or 22.

## **24 Loans by Church Commissioners**

- (1) The Church Commissioners may make a loan to a DBF for any of the following purposes—
- (a) the acquisition of land to be held as part of the diocesan glebe land;
  - (b) the development or improvement of diocesan glebe land and the safeguarding of its amenities;
  - (c) the discharge of any principal or interest owing under a mortgage or charge on diocesan glebe land.
- (2) A loan under this section may be of such amount and made on such terms and subject to the payment of interest at such rate as the Commissioners decide.
- (3) “Development”, in relation to a building, includes the division or demolition of the building.

### *Procedure*

## **25 Proceeds of sale etc.**

- (1) The proceeds of, or the capital moneys arising from, a disposition of diocesan glebe land, and any other payment in the nature of capital received in respect of diocesan glebe land, must be paid to the DBF.

- (2) Amounts paid under subsection (1) must, subject to subsection (3), be allocated to the capital account of the diocesan stipends fund.
- (3) Where, in the case of diocesan glebe land which is subject to a mortgage or charge, an estate or interest is sold or exchanged, the DBF may discharge from the proceeds any principal or interest owing under the mortgage or charge at the date of completion of the transaction.
- (4) The costs, charges and expenses of discharging sums owing under the mortgage or charge must be paid out of the capital account of the diocesan stipends fund.

## **26 Rent and other periodical payments**

- (1) Rent and other periodical payments in the nature of income received for or in respect of diocesan glebe land must be paid to the DBF, less however much is required by the DBF or a management subsidiary to meet the outgoings and expenses of the land.
- (2) Any other payment in the nature of income received in respect of diocesan glebe land must be paid to the DBF.
- (3) Amounts received under subsection (1) or (2) must, subject to subsection (4), be allocated to the income account of the diocesan stipends fund.
- (4) A periodical or other payment for or in respect of mines and minerals held as part of the diocesan glebe land by a DBF or management subsidiary, other than surface rent, must be allocated to the capital account of the diocesan stipends fund.
- (5) A DBF must continue to keep an account of—
  - (a) the income arising from the diocesan glebe land, and
  - (b) the expenditure incurred by the DBF or a management subsidiary in meeting the outgoings and expenses of the land.
- (6) A DBF must continue to keep an account of—
  - (a) the periodical or other payments for or in respect of mines and minerals held as part of the diocesan glebe land by the DBF or a management subsidiary, other than surface rent, and
  - (b) the expenditure incurred by the DBF or a management subsidiary in respect of fees or other charges for services in connection with the searching for, working and getting of the mines and minerals.
- (7) A reference to the outgoings and expenses of diocesan glebe land is a reference to the recurring outgoings attributable to it and the expenses incurred in managing it.

### *Disputes*

## **27 Disputes about glebe land etc.**

- (1) This section applies in relation to the glebe land and rights which vested in a DBF on 1 April 1978 under section 15 of the Endowments and Glebe Measure 1976.
- (2) If there is a dispute between the DBF and an incumbent or sequestrators about the land or rights, or about a covenant, condition, agreement, easement or right to which the land was subject or of which it had the benefit immediately before 1 April 1978, it is for the Church Commissioners to decide the matter.

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- (3) A decision made by the Commissioners under this section is final and binds the parties to the dispute and each incumbent who succeeds to the benefice.
- (4) A decision made by the Commissioners under section 15 of the Endowments and Glebe Measure 1976 continues to bind those whom it bound immediately before the commencement of this section and binds each incumbent who succeeds to the benefice.
- (5) A decision made by the Commissioners under this section must be set out in an instrument made under their seal.