



# Parsonages Measure 1938

1938 No. 3 1 and 2 Geo 6

A Measure passed by the National Assembly of the Church of England. To consolidate and amend the law relating to the sale, purchase and improvement of parsonage houses and of other property belonging to benefices. [23rd June 1938]

**Modifications etc. (not altering text)**

C1 Measure extended with modifications by [Pastoral Measure 1983 \(No. 1, SIF 21:4\)](#), s. 33(4)

## 1 Powers of selling parsonage houses, etc.

(1) Where the residence house, outbuildings, gardens, orchard and appurtenances belonging to any benefice shall be inconveniently situate or too large, or where for other good and sufficient reasons it shall be thought advisable to sell and dispose of the same or of any part thereof, the incumbent of such benefice, or during a vacancy the bishop, shall, subject to the provisions of this Measure, have the following powers, that is to say:—

- (i) power to sell such residence house, outbuildings, gardens, orchard, and appurtenances, or any of them, or any part thereof, with any land contiguous thereto belonging to the benefice either together or in parcels; or
- (ii) power to pull down such residence house and outbuildings, or any of them or any part thereof and sell the materials and the site thereof, or either such materials or site or any part thereof.

[<sup>F1</sup>(1A) Where the incumbent of any benefice, or during a vacancy the bishop, has power under the foregoing subsection to sell the residence house of the benefice, the incumbent or bishop, as the case may be, shall also have the following powers, that is to say:—

- (i) power to exchange that house for any other house suitable for the residence and occupation of the incumbent of the benefice;
- (ii) power to pay and receive money in respect of equality of exchange; . . . <sup>F2</sup>
- (iii) . . . . . <sup>F2</sup>

For the purposes of this subsection the word “ house ” includes the outbuildings, gardens, orchards and appurtenances or any of them or any part thereof. ]

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*Changes to legislation: There are currently no known outstanding effects for the Parsonages Measure 1938 (repealed). (See end of Document for details)*

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- (2) Upon a sale [<sup>F3</sup>or exchange] under the powers of this Measure—
- (i) any hereditament, easement, right or privilege of any kind may be excepted, reserved or granted over or in relation to any land retained for the benefice affected, or disposed of . . . <sup>F4</sup>, or in relation to any part thereof; and
  - (ii) any restriction with respect to building on or other user of land or with respect to any other thing may be imposed and made binding, so far as the law permits, by covenant, condition, or otherwise . . . <sup>F4</sup>
- (3) No power conferred by this section shall be exercisable—
- <sup>F5</sup>(i) . . . . .
  - (ii) without the consent of [<sup>F6</sup>the Church Commissioners], the [<sup>F7</sup>Board], and (in cases where the power is exercised by the incumbent) the bishop respectively;
  - (iii) without the consent of the [<sup>F8</sup>Crown Estate Commissioners] in cases where the property proposed to be disposed of is held under any grant made by or on behalf of His Majesty in right of his Crown; <sup>F9</sup> . . .
  - <sup>F10</sup>(iiia) in cases where the property proposed to be disposed of is occupied by a member of the team in a team ministry, without that member's consent; or]
  - (iv) Power or in respect of any property vested in trustees.
- <sup>F11</sup>(3A) The consent of the Church Commissioners shall not be required under subsection (3) (ii) above in the case of a sale or exchange if—
- (a) the disposition is made to a person who is not a connected person or a trustee for, or nominee of, a connected person; and
  - (b) the requirements of subsection (3B) below have been complied with in relation to it.
- [ The consent of the Church Commissioners shall not be required under subsection (3) <sup>F12</sup>(3AA) (ii) above to the exercise of the power conferred by subsection (1)(ii) where the exercise of the power consists only of pulling down the residence house and outbuildings or any of them or any part thereof.]
- (3B) The incumbent or bishop, as the case may be, must, before entering into an agreement for the sale or exchange—
- (a) obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by and acting exclusively for him;
  - (b) advertise the proposed disposition for such period and in such manner as the surveyor has advised in his report (unless he has there advised that it would not be in the best interests of the benefice to advertise the proposed disposition); and
  - (c) decide that he is satisfied, having considered the surveyor's report, that the terms on which the disposition is proposed to be made are the best that can be reasonably obtained for the benefice.]
- (4) The powers conferred by [<sup>F3</sup>subsection (1) of] this section shall continue to be exercisable in respect of a house which has ceased to be the residence house of a benefice by reason of the constitution of a new residence house of that benefice under this Measure. [<sup>F13</sup>and in respect of any property belonging to a benefice, being property which consists of an outbuilding, garden or orchard of a house which has been sold or otherwise disposed of under this Measure, and any land contiguous to, or appurtenances enjoyed with, such a house or any part of such property.]

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[<sup>F14</sup>(5) All moneys arising from any sale or exchange under the provisions of this section shall be paid in the first instance to the Board, and the receipt of the Board shall be a sufficient discharge to the purchaser, but thereafter the moneys shall be transferred to the Church Commissioners.]

[<sup>F15</sup>(6) In this section and in section 2 below—

[<sup>F16</sup>“connected person” means the incumbent, the bishop, any member, officer, agent or employee of the parochial church council of any parish within the benefice in question or of the diocesan board of finance concerned or the spouse or any child, parent, grandparent, brother or sister of any such person;]

“qualified surveyor” means a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers reasonably believed by the incumbent or the bishop, as the case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question. ]

#### Textual Amendments

- F1** S. 1(1A) inserted by Church Property (Miscellaneous Provisions Measure 1960 (No. 1), s. 1
- F2** Word and s. 1(1A)(iii) repealed by Endowments and Glebe Measure 1976 (No. 4), Sch. 8
- F3** Words inserted by Church Property (Miscellaneous Provisions) Measure 1960 (No. 1), Sch.
- F4** Words repealed by Church Property (Miscellaneous Provisions) Measure 1960 (No. 1), Sch.
- F5** S. 1(3)(i) repealed (1.1.2001) by 2000 Measure No. 1, ss. 2, 20, Sch. 1 para. 3(a)(i), Sch. 8 Pt. II; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F6** Words substituted by virtue of Church Commissioners Measure 1947 (No. 2), s. 18(2)
- F7** Words in s. 1(3)(ii) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, Sch. 1 para. 2; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F8** Words in s. 1(3)(iii) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, Sch. 1 para. 3(a)(ii); Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F9** Word in s. 1(3)(iii) repealed (1.5.1996) by 1995 No. 1, s. 8(2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York
- F10** S. 1(3)(iiia) inserted (1.5.1996) by 1995 No. 1, s. 8(2); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York
- F11** S. 1(3A)(3B) inserted (1.1.2001) by 2000 Measure No. 1, s. 2, Sch. 1 para. 3(b); Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F12** S. 1(3AA) inserted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), Sch. 1 para. 2(a); Instrument dated 24.3.2005 made by the Archbishops of Canterbury and York,
- F13** Words inserted by Church of England (Miscellaneous Provisions) Measure 1983 (No. 2, SIF 21:3), s. 4
- F14** S. 1(5) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, Sch. 1 para. 3(c); Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F15** S. 1(6) inserted (1.1.2001) by 2000 Measure No. 1, s. 2, Sch. 1 para. 3(d); Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F16** Words in s. 1(6) substituted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), Sch. 1 para. 2(b); Instrument dated 24.3.2005 made by the Archbishops of Canterbury and York,

#### Modifications etc. (not altering text)

- C2** S. 1 explained by Endowments and Glebe Measure 1976 (No. 4) s. 34

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## 2 Powers of erecting or purchasing new parsonage houses, etc.

- (1) In the case of any benefice where such action is thought desirable, and whether or not the existing residence house belonging thereto shall have been sold or disposed of, the incumbent of the benefice, or during a vacancy the bishop, shall, subject to the provisions of this Measure, have the following powers, that is to say:—
- (i) power to erect or purchase a house or purchase land for the site of a house or an orchard, garden and appurtenances or other land, such house, orchard, garden and appurtenances or any such land, being respectively suitable for the residence and occupation of the incumbent of the benefice,<sup>F17</sup> . . . . .<sup>F18</sup>
  - (ii) power to improve any house erected or purchased [<sup>F19</sup>or acquired as property of the benefice under any powers conferred by or under this Measure or any other enactment] or any house forming part of the property of the benefice which it is proposed to constitute the residence house of the benefice;
  - (iii) in cases where the foregoing powers or any of them are exercised by the bishop, power for the bishop to enter upon the land of the benefice for the purpose or exercising such powers;
  - (iv) . . . . .<sup>F20</sup>
- (2) No power conferred by subsection (1) of this section shall be exercisable without the consent of [<sup>F21</sup>the Church Commissioners], the [<sup>F22</sup>Board], and (in cases where the power is exercised by the incumbent) the bishop respectively.
- [<sup>F23</sup>(2A) The consent of the Church Commissioners shall not be required under subsection (2) above in the case of a transaction entered into in connection with the exercise of any such power if—
- (a) no person who is a connected person or a trustee for, or nominee of, a connected person is concerned in the transaction; and
  - (b) the requirements of subsection (2B) below have been complied with in relation to it.
- (2B) The incumbent or bishop, as the case may be, must, before entering into any such transaction,—
- (a) obtain and consider a written report on the proposed transaction from a qualified surveyor instructed by and acting exclusively for him; and
  - (b) decide that he is satisfied, having considered the surveyor's report, that the terms on which the transaction is proposed to be made are the best that can be reasonably obtained for the benefice.]
- (3) [<sup>F21</sup>The Church Commissioners] shall have power exercisable in their discretion to lend moneys to the incumbent or bishop (as the case may be) for any of the purposes [<sup>F24</sup>of this Measure].
- (4) If the bishop shall during a vacancy in any benefice have exercised the powers of erecting or improving a house conferred by this section and the vacancy shall have been filled before the completion of the work of erection or improvement, the incumbent succeeding to the benefice shall to the extent of any moneys specially applicable or lent by [<sup>F21</sup>the Church Commissioners] complete such work in accordance with the plans and specifications authorised by the bishop with such modifications (if any) as may be [<sup>F25</sup>agreed to by the bishop and the][<sup>F22</sup>Board], and in default of his so doing it shall be lawful for the [<sup>F22</sup>Board] so to complete such work.

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### Textual Amendments

- F17** Words in s. 2(1)(i) omitted (1.1.2001) by virtue of 2000 Measure No. 1, s. 2, **Sch. 1 para. 4(a)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F18** Words repealed by Church Property (Miscellaneous Provisions) Measure 1960 (No. 1), s. 2(1)
- F19** Words in s. 2(1)(ii) substituted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 1 para. 3**; Instrument dated 24.3.2005 made by the Archbishops of Canterbury and York
- F20** S. 2(1)(iv) repealed by Endowments and Glebe Measure 1976 (No. 4), **Sch. 8**
- F21** Words substituted by virtue of Church Commissioners Measure 1947 (No. 2), s. 18(2)
- F22** Words in s. 2(2)(4) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 2**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F23** S. 2(2A)(2B) inserted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 4(b)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F24** Words substituted by Church Property (Miscellaneous Provisions) Measure 1960 (No. 1), **Sch.**
- F25** Words in s. 2(4) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 4(c)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

### [<sup>F26</sup>2A Power to divide and improve parsonage houses during vacancy in benefice.

- (1) During a vacancy in a benefice the bishop shall have power, with the consent of <sup>F27</sup> . . . the [<sup>F28</sup>Board], to authorise the sequestrators of the benefice:—
- (a) to divide the residence house of the benefice into two or more parts or to reduce the size of the residence house in any other way,
  - (b) to enlarge the residence house,
  - (c) to carry out improvements to the residence house and the outbuildings thereof, and
  - (d) to carry out improvements to the drive paths and garden of the residence house,

and for the purpose of carrying out any work authorised under this section the sequestrators may enter upon the land of the benefice.

[ Where the residence house of a benefice is occupied by a member of the team in a team <sup>F29</sup>(1A) ministry, the sequestrators shall not carry out any work authorised under this section without that member's consent.]

- (2) Where the bishop during a vacancy in a benefice exercises his power under subsection (1) of this section and the vacancy is filled before the work undertaken in pursuance of that power has been completed, the incumbent succeeding to the benefice shall, to the extent of any moneys specially applicable or lent by the Commissioners, complete that work with such modifications, if any, as may be agreed by the bishop <sup>F27</sup> . . . and the [<sup>F28</sup>Board], and in default of his so doing the [<sup>F28</sup>Board] may complete the work.]

### Textual Amendments

- F26** S. 2A inserted by Church Property (Miscellaneous Provisions) Measure 1960 (No. 1), s. 3(1)
- F27** Words in s. 2A(1)(2) omitted (1.1.2001) by virtue of 2000 Measure No. 1, s. 2, **Sch. 1 para. 5**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F28** Words in s. 2A(1)(2) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 2**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

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**F29** S. 2A(1A) inserted (1.5.1996) by 1995 No. 1, s. 8(3); Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

**Modifications etc. (not altering text)**

**C3** S. 2A amended by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 34(2)(a)

**3 Provisions as to exercise of foregoing powers.**

(1) An incumbent or bishop proposing to exercise any of the powers conferred on him by [<sup>F30</sup>any of the foregoing sections] of this Measure shall give the prescribed notice to [<sup>F31</sup>the registered patron] of the benefice affected and to the parochial church [<sup>F32</sup>councils of all parishes within the benefice, but if any objection is raised within the prescribed time by such patron or councils the power shall not be exercised unless the Commissioners have informed the patron or the councils, as the case may be, that they are satisfied that the objection ought not to prevent the exercise of the power, together with a statement of] the reasons upon which such conclusion is founded.

...  
<sup>F33</sup>

(2) Where it shall appear desirable to a [<sup>F34</sup>Board] that any of the powers conferred by [<sup>F30</sup>any of the foregoing sections] of this Measure should be exercised in any benefice, the Board shall make a report to the bishop, and if the bishop and the incumbent of the benefice, or during a vacancy the bishop acting alone, shall request the Board so to do, the Board may frame proposals for the exercise of such power in accordance with the provisions of this Measure, and such proposals shall be communicated by the Board to the bishop and (except during a vacancy) to the incumbent.

<sup>F35</sup>(3) .....

[<sup>F36</sup>(4) An incumbent or bishop proposing to exercise any of the powers conferred on him by any of the foregoing sections of this Measure in respect of the residence house of a benefice for which a team ministry is established shall, if the house is or is to be occupied by the incumbent,—

- (a) keep every member of the team informed of matters arising from the proposal;
- (b) afford every member of the team an opportunity to express views thereon before taking any action to implement the proposal; and
- (c) have regard to those views before taking any such action.]

**Textual Amendments**

- F30** Words substituted by Church Property (Miscellaneous Provisions) Measure 1960 (No. 1), s. 3(2)
- F31** Words substituted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), Sch. 4 para. 3
- F32** Words in s. 3(1) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, Sch. 1 para. 6(a); Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F33** Proviso inserted by Church Property (Miscellaneous Provisions) Measure 1960 (No. 1), s. 3(2) was repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1)(2), Sch. 4 para. 3, Sch. 5
- F34** Words in s. 3(2) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, Sch. 1 para. 2; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F35** S. 3(3) repealed (1.1.2001) by 2000 Measure No. 1, ss. 2, 20, Sch. 1 para. 6(b), Sch. 8 Pt. II; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F36** S. 3(4) inserted (1.5.1996) by 1995 No. 1; Instrument dated 12.2.1996 made by Archbishops of Canterbury and York

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4 ..... F37

**Textual Amendments**

F37 S. 4 repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), ss. 34(1), 41(2), Sch. 5

**5 Application of moneys derived from sales.**

(1) Subject to the provisions of this section, [F38the Church Commissioners] shall in their discretion apply and dispose of any moneys arising from any sale [F39or exchange] under this Measure of any part of the property of a benefice for one or more of the following purposes (that is to say):—

- (i) in payment of the costs, charges and expenses of such sale [F39or exchange];
- (ii) for or towards any one or more of the purposes of the powers contained in paragraphs (i) and (ii) of subsection (1) of section two [F39and in subsection (1) of section two A] of this Measure;
- (iii) in repayment of any money expended with the [F40previous consent of] the [F41Board] for the purpose of rendering the property sold [F39or exchanged] more readily saleable [F39or exchangeable];
- (iv) if and in so far as the income derived from any moneys arising from any sale [F39or exchange] under this Measure pending the application and disposition of such moneys under the foregoing paragraphs of this subsection shall be insufficient for this purpose, in payment to the incumbent of the benefice affected of the whole or any part of the expenses reasonably incurred by him in respect of his removal from one residence house to another, the storage of his furniture, and the rent paid by him for any temporary residence pending his occupation of the new residence house of the benefice: provided that no payment shall be made under the provisions of this paragraph unless the consent of the bishop and the [Board] shall have first been obtained; and

[F42(iv) (a) In repaying to an incumbent or incumbents such amounts as he or they may have paid to [F38the Church Commissioners] in reduction of a loan made by them for or towards the erection or purchase of a residence house;]

[F42(iv) (b) In repaying to [F38the Church Commissioners] the whole or any part of any grant made by them for or towards the erection or purchase of a residence house.]

F43(v) .....

(2) Provided that in any case where such moneys shall have arisen from the sale [F39or exchange] of property purchased originally or built or improved either wholly or in part by means of a loan ... F44, ... F45, or which is subject to any mortgage or charge in favour of [F38the Church Commissioners], arising under any ... F44 Act or Measure, ... F44 and any principal money [F46or interest] shall remain owing on account of such loan or under such mortgage or charge, [F38the Church Commissioners] may apply such moneys in or towards the discharge of such principal money [F46or interest].

[F47(3) Any moneys arising from any sale or exchange of any part of the property of a benefice under this Measure, in so far as they shall not be applied and disposed of under the foregoing provisions of this section or under section 36(2) of the Endowments and Glebe Measure 1976 [F40and the Commissioners are satisfied that they should not be so applied or disposed of, shall be allocated] to the capital account of the diocesan

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stipends fund of the diocese to which the benefice belongs or to the pastoral account of that diocese, or partly to one and partly to the other as the diocesan board of finance may determine.]

[<sup>F48</sup>(4) The Board shall provide the Commissioners with such information as they may require concerning transactions under this Measure affecting property.]

#### Textual Amendments

- F38** Words substituted by virtue of Church Commissioners Measure 1947 (No. 2), **s. 18(2)**
- F39** Words inserted by Church Property (Miscellaneous Provisions) Measure 1960 (No. 1), **Sch.**
- F40** Words in s. 5(1)(iii)(3) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 7(a)(b)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F41** Words in s. 5(1)(iii)(iv) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 2**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F42** S. 5(1)(iv)(a) (b) inserted by Parsonages (Amendment) Measure 1947 (No. 3), **s. 3(1)**
- F43** S. 5(1)(v) repealed (1.1.2001) by 2000 Measure No. 1, ss. 2, 20, Sch. 1 para. 7(a), **Sch. 8 Pt. II**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F44** Words repealed by Endowments and Glebe Measure 1976 (No. 4), **Sch.**
- F45** Words repealed by Repair of Benefice Buildings Measure 1972 (No. 2), **Sch. 2**
- F46** Words inserted by Parsonages (Amendment) Measure 1947 (No. 3) s. 3(2)
- F47** S.5(3): by Pastoral Measure 1983 (No. 1, SIF 21:4), **s. 91** it is provided that notwithstanding the repeal by that Measure of the Pastoral (Amendment) Measure 1982, section 5(3) shall continue to have effect as amended by section 70 of the said Measure of 1982 and that accordingly s. 5(3) should have effect as set out in the said s. 91
- F48** S. 5(4) inserted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 7(c)**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

#### Modifications etc. (not altering text)

- C4** S. 5 excluded by Pastoral Measure 1983 (No. 1, SIF 21:4), **s. 33(5)**

## 6 Interim Income.

In any case where any income shall be derived from any moneys arising from any sale [<sup>F49</sup>or exchange] under this Measure pending the application and disposition of such moneys under the foregoing provisions of this Measure, such income shall be added to the capital by way of accumulation unless [<sup>F50</sup>the Church Commissioners] shall think fit to pay the whole or any part thereof to the incumbent of the benefice concerned or otherwise apply the same as income of the benefice on account of which the same shall have been received.

#### Textual Amendments

- F49** Words inserted by Church Property (Miscellaneous Provisions) Measure 1960 (No. 1), **Sch.**
- F50** Words substituted by virtue of Church Commissioners Measure 1947 (No. 2), **s. 18(2)**

## [<sup>F517</sup> Notice of application of moneys.

The Board shall give the prescribed notice to the registered patron (as defined in section 39(1) of the Patronage (Benefices) Measure 1986), if any, of the benefice affected, to the parochial church councils of all parishes within the benefice and to the



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Church Commissioners of any proposed application and disposition of moneys under section 5(1)(ii) or (3) of this Measure, and shall forward to the Church Commissioners for the purposes of consideration any representations made by such patron or council with regard to such application and disposition [<sup>F52</sup>within the period specified in the notice ].]

#### Textual Amendments

- F51** S. 7 substituted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 8**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F52** Words in s. 7 added (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 1 para. 4**; Instrument dated 24.3.2005 made by the Archbishops of Canterbury and York

### 8 Consent and approval.

- (1) Any consent or approval of a bishop under this Measure shall be signified by writing under his hand.
- (2) Any consent or approval of a [<sup>F53</sup>Board] under this Measure may be given by an instrument in writing signed by the secretary of such Board.

#### Textual Amendments

- F53** Words in s. 8(2) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 2**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

### 9 Assurances.

- (1) Land (including Buildings) sold [<sup>F54</sup>purchased or exchanged] under this Measure shall conveyed by or to the incumbent of the benefice affected in his affected in his corporate capacity, and so that—
    - (i) during a vacancy the bishop shall have power to convey or to take under a conveyance in the name and on behalf of the incumbent of the benefice in his corporate capacity, and no conveyance so made or taken shall on the vacancy being filled be capable of being disclaimed or renounced by any incumbent succeeding to the benefice: . . . <sup>F55</sup>
    - (ii) . . . <sup>F55</sup>
  - (2) [<sup>F56</sup>The sealing by the Board of any conveyance]excuted under this Measure shall be conclusive evidence that all the requirements of this Measure with respect to the transaction carried out by such conveyance have been complied with.
- [<sup>F57</sup>(2A) A statement in a document signed by the secretary or other duly authorised officer of the Commissioners that the Commissioners have consented to the terms of any transaction under this Measure affecting property which is specified in the document shall be conclusive evidence that they have consented to those terms.
- (2B) A statement in a document giving effect to any transaction under this Measure that the consent of the Commissioners or the Board or both to the terms of the transaction is not required under section 1(3)(ii) above shall, if the document is sealed with the seal

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of the Board or is signed on behalf of the Board by a person duly authorised by the Board, be conclusive evidence of that fact.]

[<sup>F58</sup>(2C) Where any transaction under this Measure affecting property does not contain a statement under subsection (2A) or (2B) above then in favour of a person who (whether under the transaction or afterwards) in good faith acquires an interest in the property for money or money's worth the disposition effected by the transaction shall be valid whether or not any consent of the Commissioners or the Board which was required to the transaction has been given.]

(3) Every conveyance of land (including buildings) purchased [<sup>F59</sup>or acquired by way of exchange] for a benefice under this Measure shall be registered in the prescribed manner in the registry of the diocese concerned.

(4) In any case where any land (including buildings) sold [<sup>F59</sup>or exchanged] under this Measure is subject to any mortgage or charge in favour of [<sup>F60</sup>the Church Commissioners], the conveyance thereof under this measure shall be effectual to pass the same discharged from such mortgage or charge, and such mortgage or charge shall attach to the purchase money arising on the sale [<sup>F61</sup>or to any money paid to the Church Commissioners by way of equality of exchange and to the house acquired by way of exchange]

#### Textual Amendments

- F54** Words substituted by [Church Property \(Miscellaneous Provisions\) Measure 1960 \(No. 1\)](#), [Sch.](#)
- F55** Words, and s. 9(1)(ii) repealed by [Charities Act 1960 \(c. 58\)](#), [Sch. 7 Pt. II](#)
- F56** Words in s. 9(2) substituted (1.1.2001) by 2000 Measure No. 1, s. 2, [Sch. 1 para. 9\(a\)](#); Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F57** S. 9(2A)(2B) inserted (1.1.2001) by 2000 Measure No. 1, s. 2, [Sch. 1 para. 9\(b\)](#); Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F58** S. 9(2C) inserted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), [Sch. 1 para. 5](#); Instrument dated 24.3.2005 made by the Archbishops of Canterbury and York
- F59** Words inserted by [Church Property \(Miscellaneous Provisions\) Measure 1960 \(No. 1\)](#), [Sch.](#)
- F60** Words substituted by virtue of [Church Commissioners Measure 1947 \(No. 2\)](#), [s. 18\(2\)](#)
- F61** Words added by [Church Property \(Miscellaneous Provisions\) Measure 1960 \(No. 1\)](#), [Sch.](#)

10

..... F62

#### Textual Amendments

- F62** S. 10 repealed by [Endowments and Glebe Measure 1976 \(No. 4\)](#), [Sch. 8](#)

### 11 Bishop to certify residence house of benefice.

(1) Any house erected, purchased [<sup>F63</sup>acquired by way of exchange] or improved under the powers [<sup>F64</sup>conferred by this Measure or any other enactment] as the residence of an incumbent of a benefice shall as from the date on which the bishop so certifies in writing be deemed and taken to be the residence house of the benefice for which the same is erected, purchased [<sup>F63</sup>acquired by way of exchange] or improved for all purposes.

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- (2) If the residence house of a benefice is divided into two or more parts, one of the said parts shall as from the date on which the bishop so certifies in writing be deemed and taken to be the residence house of the benefice.

**Textual Amendments**

- F63** Words inserted by [Church Property \(Miscellaneous Provisions\) Measure 1960 \(No. 1\)](#), [Sch.](#)
- F64** Words in s. 11(1) substituted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), [Sch. 1 para. 6](#); Instrument dated 24.3.2005 made by the Archbishops of Canterbury and York

**12 Provisions for parishes without parochial church councils.**

Where it is proposed that the powers conferred by this Measure shall be exercised in relation to any benefice and at the time of such proposed exercise there is no parochial church council constituted in [<sup>F65</sup>any parish within that benefice], the following provisions shall have effect:—

- (i) Any notice or information required to be given under this Measure to the parochial church council of the parish concerned shall be deemed to be duly given if given to the churchwardens of that parish; and
- (ii) the churchwardens of the parish concerned shall have the same powers of raising objections, making representations, and giving consents as are conferred on parochial church councils by this Measure, and every objection, representation or consent so raised, made or given, shall be as effectual for all the purposes of this Measure as if there were a parochial church council duly constituted in that parish, and such objection, representation or consent had been duly raised, made or given by such parochial church council.

**Textual Amendments**

- F65** Words in s. 12 substituted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), [Sch. 1 para. 7](#); Instrument dated 24.3.2005 made by the Archbishops of Canterbury and York

**13 Notices where bishop is also patron.**

In any case where the bishop is himself the [<sup>F66</sup>registered] patron of a benefice in right of his see (either solely or alternately with others), it shall not be necessary to give the bishop in his capacity as [<sup>F66</sup>registered] patron any notice or information which is required to be given to the [<sup>F66</sup>registered] patron under this Measure.

**Textual Amendments**

- F66** Word inserted by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\)](#), s. 41(1), [Sch. 4 para. 5](#)

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### Textual Amendments

**F67** S. 14 repealed by [Church of England \(Miscellaneous Provisions\) Measure 1976 \(No. 3\)](#), **Sch. Pt. II**

## 15 Rules.

- (1) [<sup>F68</sup>The Church Commissioners] shall make rules for prescribing anything which is to be prescribed hereunder, and generally for carrying this Measure into effect, and such rules shall (without prejudice to the generality of the foregoing provisions)—
  - (i) .....<sup>F69</sup>
  - (ii) contain appropriate provisions as to the notice to be given in any case where a [<sup>F70</sup>registered] patron is subject to any incapacity or where there is any difficulty in determining who is the [<sup>F70</sup>registered] patron of any benefice, or where for any other reason notice cannot practicably be given to the [<sup>F70</sup>registered] patron personally; and
  - (iii) provide for any notice required by this Measure, or consideration of objections, or other proceedings consequent on such notice being, by the direction of [<sup>F68</sup>the Church Commissioners], dispensed with in cases of urgency, with the consent of the [<sup>F70</sup>registered] patron and the parochial church council.
- (2) No Rule made by [<sup>F68</sup>the Church Commissioners] in pursuance of this Measure shall come into force until it has been submitted for approval to and approved by the [<sup>F71</sup>General Synod]
- (3) Every rule purporting to be made by [<sup>F68</sup>the Church Commissioners] and approved by the [<sup>F71</sup>General Synod] in pursuance of this section shall forthwith be laid before both Houses of Parliament, and if either House of Parliament within the next subsequent twenty-eight days on which that House has sat resolves that any such rule shall be annulled, such rule shall forthwith be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new rule,
- (4) Prima facie evidence of any rule made by [<sup>F68</sup>the Church Commissioners] and approved by the [<sup>F71</sup>General Synod] under this Measure may be given by producing a copy of such rule containing a statement that the same has been approved by the [<sup>F71</sup>General Synod] sealed with the common seal of [<sup>F68</sup>the Church Commissioners] or certified to be a true copy under the hand of the Secretary for the time being of [<sup>F68</sup>the Church Commissioners].
- <sup>F72</sup>(5) Any rules made under this section shall be laid before the General Synod and shall not come into force until they have been approved by the General Synod, whether with or without amendment.
- (6) Where the Business Committee determines that rules made under this section do not need to be debated by the General Synod then, unless—
  - (a) notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the rules to be debated, or
  - (b) notice is so given by any such member that he wishes to move an amendment to the rules,
 the rules shall for the purposes of subsection (5) above deemed to have been approved by the General Synod without amendment.

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- (7) The Statutory Instruments Act 1946 shall apply to any rules approved by the General Synod under this section as if they were a statutory instrument and as if this Measure were an Act providing that any such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F68** Words substituted by virtue of [Church Commissioners Measure 1947 \(No. 2\), s. 18\(2\)](#)
- F69** S. 15(1)(i) repealed by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\), s. 41\(1\)\(2\), Sch. 4 para. 6, Sch. 5](#)
- F70** Word inserted by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\), s. 41\(1\), Sch. 4 para. 6](#)
- F71** Words substituted by virtue of [Synodical Government Measure 1969 \(No. 2\), s. 2\(1\)](#)
- F72** S. 15(5)(6)(7) inserted (1.1.2001) by [2000 Measure No. 1, s. 2, Sch. 1 para. 10](#); Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

## 16 Benefices in Crown patronage.

Where any notice to a [<sup>F73</sup>registered] patron of a benefice is to be given or any act or thing is to be done by such patron, notice may be given or such act or thing may be done where the patronage of the benefice is in the Crown or is part of the possessions of the Duchy of Lancaster or of the Duchy of Cornwall, to or by the person or persons to whom notices in connection with such benefice may be given under [<sup>F74</sup>section eighty one of the <sup>M1</sup>Pastoral Measure 1968][<sup>F75</sup>and for the purposes of this Measure Her Majesty shall be deemed to be the registered patron of a benefice the patronage of which is vested in the Crown or is part of the possessions of the Duchy of Lancaster, and the possessor for the time being of the Duchy of Cornwall shall be deemed to be the registered patron of a benefice the patronage of which is part of the possessions of that Duchy]

#### Textual Amendments

- F73** Word inserted by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\), s. 41\(1\), Sch. 4 para. 7](#)
- F74** Words substituted by virtue of [Interpretation Measure 1925 \(No. 1\), s. 1](#)
- F75** Words inserted by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\), s. 41\(1\), Sch. 4 para. 7](#)

#### Marginal Citations

- M1** [1968 No. 1.](#)

## 17 Extension of section five of the Parsonages Act, 1838. 1 & 2 Vict. c. 23.

The Powers conferred upon colleges and halls within the Universities of Oxford and Cambridge and other corporate bodies by section five of the Parsonages Act 1838, shall extend and be applicable so as to authorise loans in aid of any erection of a residence house or purchase under this Measure.

## 18 Extension of section fifteen of Clergy Residences Repair Act, 1776 (17.Geo. 3) c. 53.

Section fifteen of the Clergy Residences Repair Act 1776 shall apply to assurances and other instruments made under and for the purposes of this Measure in the same

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manner as it applies to instruments made under and for the purposes of that Act, or the Acts amending or extending the same.

19 .....<sup>F76</sup>

#### Textual Amendments

**F76** S. 19 repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(2), **Sch. 5**

## 20 Interpretation.

In this Measure the expressions “bishop” and “[<sup>F77</sup>Board]” when used with reference to a benefice mean respectively the bishop of the diocese and the [<sup>F78</sup>Board appointed or designated under section 1 of the <sup>M2</sup>Repair of Benefice Buildings Measure 1972] for the area in which the benefice is situate [<sup>F79</sup>and the expression “purchase,” in relation to any land, includes, the acceptance of any leasehold interest in that land]. [<sup>F80</sup>and “registered patron” has the same meaning as in the Patronage (Benefices) Measure 1986][<sup>F81</sup>; and references to the Board shall be construed as references to the Parsonages Board or (if designated as such under section 1(1) of the Repair of Benefice Buildings Measure 1972) the Diocesan Board of Finance.]

#### Textual Amendments

- F77** Words in s. 20 substituted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 2**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F78** Words substituted by virtue of Repair of Benefice Buildings Measure 1972 (No. 2), **s. 29**
- F79** Words added by Church Property (Miscellaneous Provisions) Measure 1960 (No. 1), **s. 2(2)**
- F80** Words inserted by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(1), **Sch. 4 para. 8**
- F81** Words in s. 20 inserted (1.1.2001) by 2000 Measure No. 1, s. 2, **Sch. 1 para. 11**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

#### Marginal Citations

**M2** 1972 No. 2.

## <sup>F82</sup>21 Commencement.

#### Textual Amendments

**F82** S. 21 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 6** Group 2(2)

#### Modifications etc. (not altering text)

**C5** 15.7.1938 appointed under s. 21

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**22 Extent and short title.**

- (1) This Measure shall extend to the whole of the Provinces of Canterbury and York, except the Channel Islands and the Isle of Man.
- (2) This Measure may be cited as the Parsonages Measure 1938.

**23** ..... **F83**

**Textual Amendments**

**F83** S. 23 repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Parsonages Measure 1938 (repealed).