

# National Institutions Measure 1998

## 1998 No. 1

A Measure passed by the General Synod of the Church of England to make better provision for the establishment and functions of the national institutions of the Church of England and for the management of the assets thereof; and for purposes connected therewith. [2nd July 1998]

### *Archbishops' Council*

#### **1 Establishment of the Archbishops' Council.**

- (1) There shall be a body to be known as “the Archbishops’ Council” whose objects shall be to co-ordinate, promote, aid and further the work and mission of the Church of England.
- (2) It is hereby declared that the Council is established for charitable purposes.
- (3) The provisions of Schedule 1 to this Measure shall have effect with respect to the Council and its members, to the appointment of its staff and to its proceedings and incidental powers.
- (4) Part I of Schedule 1 to this Measure may at any time be amended by resolution of the General Synod.
- (5) The <sup>M1</sup>Statutory Instruments Act 1946 shall apply to any resolution of the General Synod under subsection (4) above as if it were a statutory instrument and as if this Measure were an Act providing that any such resolution shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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#### **Marginal Citations**

**M1** 1946 c. 36.

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*Status: Point in time view as at 01/01/2020.*

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## 2 Application of funds.

- (1) It shall be the duty of the Church Commissioners—
  - (a) from time to time in general meeting to determine the amount of income from their assets which is to be made available to the Council for application or distribution under subsection (3) below in the course of such period as may be specified in the determination, and
  - (b) to the extent that the Church Commissioners are satisfied that it is available for application or distribution, to pay that amount to the Council in equal monthly instalments or as otherwise agreed by them and the Council.
- (2) Before determining the amount mentioned in subsection (1)(a) above the Church Commissioners shall consult the Council and in making the determination they shall have regard to any proposals made by the Council.
- (3) The Council shall consider and determine how to apply or distribute such sums as have been made available by the Church Commissioners under subsection (1) above, but those sums shall not be applied or distributed by the Council for any purpose other than one for which the balance in the Church Commissioners' general fund was available immediately before the coming into force of this section and in applying or distributing those sums the Council shall have particular regard to the requirements of section 67 of the <sup>M2</sup>Ecclesiastical Commissioners Act 1840 relating to the making of additional provision for the cure of souls in parishes where such assistance is most required.
- (4) Where a decision is taken by the Council or the Church Commissioners to the effect that a plan should be produced under this subsection, those bodies acting jointly shall after consultation with any body appearing to them to be significantly affected, produce a plan which—
  - (a) contains an estimate by the Church Commissioners, having regard to any recommendation made by the Assets Committee under section 6(3)(b) of the <sup>M3</sup>Church Commissioners Measure 1947, of the amount of income from their assets available for application or distribution under subsection (3) above during a period not exceeding three years, and
  - (b) identifies the purposes for which the sums mentioned in subsection (3) above are to be applied or distributed in the course of that period or part thereof and the proportion of those sums appropriate for each purpose.

Any such plan may be amended or replaced in the same manner.
- (5) Where a plan is produced under subsection (4) above—
  - (a) the Church Commissioners, in complying with the requirements of subsection (2) above, shall have regard to the plan, and
  - (b) the Council, in complying with the requirements of subsection (3) above, shall act in accordance with the plan,

in so far as the plan relates to the period in question.
- (6) As soon as practicable after the end of each year the Council shall cause a certificate to be issued to the Church Commissioners to the effect that the application and distribution of the sums made available by them as aforesaid has been in accordance with subsection (3) above.

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

- C1** S. 2(3) modified (1.1.2014) by [Diocese in Europe Measure 2013 \(No. 1\)](#), **ss. 1(2)**, 3(2); 2013 No. 3, art. 2
- C2** S. 2(3) modified (retrosp.) (19.5.2014) by [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), s. 21(2), **Sch. 2 para. 13(2)**; S.I. 2014/1369, art. 2

#### Marginal Citations

- M2** 3 & 4 Vict. c. 113.
- M3** 10 & 11 Geo. 6 No. 2.

### 3 Accounts and audit.

- (1) The following provisions of this section shall have effect without prejudice to the provisions of [<sup>F1</sup>Part 8 of the Charities Act 2011].
- (2) The accounts of the Council for each year shall be audited by a person appointed by the Council with the approval of the General Synod, being a person eligible [<sup>F2</sup>under subsection (2) of section 144 of that Act to carry out an audit under that subsection].
- (3) The person so appointed shall be deemed, for the purposes of the said [<sup>F3</sup>Part 8, to have been appointed in pursuance of the said section 144].
- (4) The auditor's report for any year, together with the accounts for that year, shall be laid before the General Synod before the end of June in the following year.

#### Textual Amendments

- F1** Words in s. 3(1) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, **Sch. 7 para. 80(1)** (with s. 20(2), Sch. 8)
- F2** Words in s. 3(2) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, **Sch. 7 para. 80(2)** (with s. 20(2), Sch. 8)
- F3** Words in s. 3(3) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, **Sch. 7 para. 80(3)** (with s. 20(2), Sch. 8)

### 4 Reports and budgets.

- (1) The Council shall cause a report of its work and proceedings during the year in question, including any decisions taken as to its future work, to be laid before the General Synod before the end of June in the following year.
- (2) The Council shall also, at each group of sessions of the General Synod, cause an account of the matters discussed and the decisions taken by it at its meetings held since the previous group of sessions to be laid before the General Synod.
- (3) In each year the Council shall prepare a budget indicating its expected income and expenditure for the following year and, before the end of June, cause it to be laid before the General Synod for its approval.
- (4) In considering the annual budget it shall not be open to the General Synod to alter the amount of the sums to be made available to the Council by the Church Commissioners under section 2 above or the proposed application or distribution of those sums.

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- (5) The General Synod may request reports from the Council on any matter relating to the functions of the Council.

*Transfer of functions and officers*

**5 Transfer of functions.**

- (1) Subject to the following provisions of this section the Archbishops of Canterbury and York acting jointly may, after consultation with any body appearing to them to be significantly affected, by order transfer to the Council or such other body as may be specified in the order any function previously exercisable by—
- (a) the Church Commissioners other than—
    - (i) a function relating to the management or ownership of the Commissioners' assets,
    - (ii) a function relating to bishops under any enactment specified in Part I of Schedule 2 to this Measure,
    - (iii) a function relating to cathedrals under any enactment specified in Part II of that Schedule, and
    - (iv) a function under the Church of England (Pensions) Measures 1961 to 1997, or
  - (b) the Central Board of Finance, or
  - (c) the Standing Committee of the General Synod or any of its sub-committees.
- (2) Any such order may contain such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the order, including provisions—
- (a) amending paragraph 1 of Schedule 1 to the <sup>M4</sup>Church Commissioners Measure 1947 (as substituted by section 7 below) so as to reduce the number of Commissioners;
  - (b) for the carrying on and completion by or under the authority of the Council or other body so specified of anything commenced by or under the authority of the Commissioners, the Central Board of Finance or the Standing Committee before the date on which the order takes effect;
  - (c) for such adaptation of the statutory provisions relating to any such function transferred as may be necessary to enable it to be exercised by or on behalf of the Council or other body so specified;
  - (d) for the substitution of the Council or other body so specified for the Commissioners, the Central Board of Finance or the Standing Committee in any instrument, contract or legal proceedings made or commenced before the date on which the order takes effect.
- (3) Before making any such order which relates to the functions of the Church Commissioners under the <sup>M5</sup>Dioceses Measure 1978 or the <sup>M6</sup>Pastoral Measure 1983 the Archbishops shall consult with the Prime Minister and the Church Commissioners.
- (4) An order under subsection (1) above may be varied by a subsequent order made thereunder.
- (5) A draft of any order proposed to be made under subsection (1) above shall be laid before the General Synod and if it is approved by the General Synod, whether

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with or without amendment, the draft order as so approved shall be referred to the Archbishops.

- (6) Where a draft order is referred to the Archbishops under subsection (5) above then—
- (a) if it has been approved by the General Synod without any amendment, the Archbishops shall make the order;
  - (b) if it has been approved by the General Synod with amendment, the Archbishops may make the order but, in the case of any order which relates to the functions of the Church Commissioners under the Dioceses Measure 1978 or the Pastoral Measure 1983, shall not do so without further consultation as required by subsection (3) above.
- (7) An order under subsection (1) above which relates to the functions of the Church Commissioners under the Dioceses Measure 1978 or the Pastoral Measure 1983 shall not come into operation unless and until it has been approved by resolution of each House of Parliament.
- (8) The <sup>M7</sup>Statutory Instruments Act 1946 shall apply to any order under subsection (1) above as if it were a statutory instrument and, in the case of an order which does not relate to a function to which subsection (7) above applies, as if this Measure were an Act providing that any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

- M4** 10 & 11 Geo. 6 No. 2.  
**M5** 1978 No. 1.  
**M6** 1983 No. 1.  
**M7** 1946 c. 36.

## 6 Transfer of officers.

- (1) Where a person or body to whom this section applies determines that all or any of the officers of that person or body should be transferred to any body or partnership of the kind mentioned in subsection (4) below as a common employer and the last mentioned body or partnership agrees to the transfer, the provisions of Schedule 3 to this Measure shall have effect in relation to each officer transferred.
- (2) This section applies to the following bodies—
- the Archbishops' Council
  - the Church Commissioners
  - the Central Board of Finance
  - the Pensions Board.
- (3) This section also applies to such other bodies or persons as the Archbishops of Canterbury and York acting jointly may by order determine after consultation with the bodies specified in subsection (2) above.
- (4) Where two or more of the bodies or persons to whom this section applies enter into an agreement—
- (a) which would be a partnership within the meaning of the <sup>M8</sup>Partnership Act 1890 if they were carrying on a business with a view to profit, and

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- (b) which provides for the employment of officers, that agreement shall be deemed to be a partnership for the purposes of that Act, notwithstanding that they are not carrying on such a business.
- (5) Any partnership agreement of the kind mentioned in subsection (4) above may provide for the admission to the partnership of one or more of the bodies mentioned in subsection (2) above as general partners and of one or more of the bodies or persons to whom this section applies as limited partners.

In this subsection “limited partner” and “general partner” have the same meanings as in the <sup>M9</sup>Limited Partnerships Act 1907.

#### Subordinate Legislation Made

- P1** S. 6(3) power fully exercised: [Instrument dated 31.12.1999 made by the Archbishops of Canterbury and York](#)

#### Marginal Citations

- M8** 53 & 54 Vict. c. 39.  
**M9** 7 Edw. 7 c. 24.

### Church Commissioners

#### 7 Amendment of Church Commissioners Measure 1947.

- (1) The <sup>M10</sup>Church Commissioners Measure 1947 shall have effect subject to the amendments specified in Schedule 4 to this Measure.
- (2) The Church Commissioners in office immediately before the date of the coming into force of paragraph 8 of the said Schedule 4, other than those who are to be Church Commissioners ex officio by virtue of that paragraph, shall cease to be such on that date.
- (3) Any rules made by the General Purposes Committee under section 17 of the Church Commissioners Measure 1947 and in force immediately before the coming into force of paragraph 7 of the said Schedule 4 shall continue to have effect as if made by the Board of Governors of the Church Commissioners.

#### Marginal Citations

- M10** 10 & 11 Geo. 6 No. 2.

#### 8 Management of assets.

The Church Commissioners shall continue to manage their assets for the advancement of any purpose for which they held those assets immediately before the coming into force of this section, and in so doing they shall have particular regard to the requirements of section 67 of the <sup>M11</sup>Ecclesiastical Commissioners Act 1840 relating to the making of additional provision for the cure of souls in parishes where such assistance is most required.

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

**C3** S. 8 modified (1.1.2014) by [Diocese in Europe Measure 2013 \(No. 1\), ss. 1\(2\), 3\(2\)](#); 2013 No. 3, art. 2

**Marginal Citations**

**M11** 3 & 4 Vict. c. 113.

*General provisions*

**9 Standing Orders of the General Synod.**

The Standing Orders regulating the procedure of the General Synod shall include provision—

- (a) permitting the Archbishops' Council or the Business Committee of the General Synod to introduce to the General Synod draft legislation proposed to be passed by the General Synod;
- (b) affording the General Synod an opportunity at each group of sessions—
  - (i) to consider any report or budget laid before it in pursuance of section 3 or 4 above,
  - (ii) to consider such other matters as may be referred to it by the Council, and
  - (iii) to question representatives of the Council in connection with any such report, budget or other matter.

**10 Committees.**

The General Synod shall, without prejudice to paragraph 10 of Schedule 2 to the <sup>M12</sup>Synodical Government Measure 1969, appoint or provide by its Standing Orders for the appointment of—

- (a) a committee to be known as “the Appointments Committee of the Church of England”, the membership of which shall consist of persons who are members of the General Synod, <sup>F4</sup>...
- (b) a committee to be known as “the Business Committee of the General Synod”, the membership of which shall consist of persons who are members of the General Synod.

**Textual Amendments**

**F4** Words in s. 10(a) omitted (19.5.2014) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\), s. 21\(2\), Sch. 2 para. 13\(3\)](#); S.I. 2014/1369, art. 2

**Marginal Citations**

**M12** 1969 No. 2.

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## **11 Restriction on elected membership of certain bodies.**

- (1) Where a person is elected by the General Synod or one of its Houses as a member of any body to whom this section applies when he is a member of any other such body, he shall cease to be a member of that other body.
- (2) It shall not be open to any person to stand for election as a member of more than one such body at the same time.
- (3) This section applies to—
  - the Archbishops' Council,
  - the Church Commissioners,
  - the Church of England Pensions Board,
  - the Appointments Committee of the Church of England, and
  - the Business Committee of the General Synod.

## **12 Interpretation.**

- (1) In this Measure, unless the context otherwise requires—
  - “the Council” means the Archbishops' Council established by section 1 above;
  - “functions” includes powers and duties;
  - “officer” includes servant;
  - “statutory provision” means any provision contained in an Act or Measure or in an instrument made under an Act or Measure;
  - “year” means the financial year of the Church Commissioners.
- (2) References in this Measure to the House of Bishops, the House of Clergy or the House of Laity shall be construed as references to the relevant House of the General Synod.

## **13 Amendments and repeals.**

- (1) The enactments mentioned in Schedule 5 to this Measure shall have effect subject to the amendments specified in that Schedule.
- (2) In the <sup>M13</sup>Church Commissioners Measure 1947 the following provisions are hereby repealed—
  - in section 10, subsections (2) and (3);
  - in section 13, subsection (1);
  - section 14;
  - Schedule II.
- (3) In the <sup>M14</sup>Church of England (Miscellaneous Provisions) Measure 1995 section 6 is hereby repealed.

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### **Marginal Citations**

**M13** 10 & 11 Geo. 6 No. 2.

**M14** 1995 No. 2.



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**14 Extent.**

This Measure shall extend to the whole of the Provinces of Canterbury and York.

**15 Short title and commencement.**

This Measure may be cited as the National Institutions Measure 1998 and shall come into force on such day as may be appointed by the Archbishops of Canterbury and York acting jointly, and different days may be appointed for different provisions.

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**Subordinate Legislation Made**

**P2** [S. 15](#): power exercised (14.10.1998): 1.1.1999 day appointed for whole measure; [Instrument dated 14.10.1998 made by Archbishops of Canterbury and York](#)

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## SCHEDULES

### SCHEDULE 1

Section 1(3) and (4).

#### THE ARCHBISHOPS’ COUNCIL

#### PART I

##### *CONSTITUTION AND MEMBERSHIP*

- 1 (1) The Council shall consist of—
- (a) the Archbishops of Canterbury and York;
  - (b) the Prolocutors of the Convocations of Canterbury and York;
  - (c) the chairman and vice-chairman of the House of Laity;
  - (d) two bishops elected by the House of Bishops from among its members;
  - (e) two clerks in Holy Orders elected by the House of Clergy from among its members;
  - (f) two lay persons elected by the House of Laity from among its members;
  - (g) such persons as may be appointed under sub-paragraph (2) below;
  - (h) one of the Church Estates Commissioners appointed by the Archbishops of Canterbury and York acting jointly.
- (2) Subject to sub-paragraph (3) below, the Archbishops of Canterbury and York, acting jointly, may appoint not more than six persons as members of the Council.
- (3) No appointment under sub-paragraph (2) above shall be made without the approval of the General Synod; and in considering the making of any such appointment (except on the first occasion when the power to appoint is exercised) the Archbishops of Canterbury and York shall consult the Council and the Appointments Committee of the Church of England.
- 2 The Archbishops of Canterbury and York shall be joint Presidents of the Council.
- 3 The Archbishop of Canterbury shall preside at meetings of the Council unless he determines otherwise, in which case the Archbishop of York or one of the other members of the Council appointed by the Council after consultation with the Archbishops, either generally for the purposes of this paragraph or on a particular occasion, shall preside.
- 4 (1) Subject to the following provisions of this Schedule, a member of the Council shall hold and vacate office in accordance with the terms of his appointment.
- (2) Members of the Council elected under paragraph 1(1)(d), (e) or (f) above or appointed under paragraph 1(2) above shall serve for such number of years, being not less than three and not more than five, as may be determined in each case by the General Synod.
  - (3) In this paragraph “year” means a period of twelve months.

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- 5 (1) A member of the Council may, by notice in writing addressed to the Archbishop of Canterbury, resign his membership.
- (2) Where a member of the Council fails throughout a period of six consecutive months from his last attendance to attend any meeting of the Council he shall be deemed to have resigned his membership unless the Archbishop of Canterbury determines that he had reasonable cause for not attending.
- 6 A member of the Council who ceases to be a member shall be eligible for re-election or re-appointment:  
Provided that a member elected under paragraph 1(1)(d), (e) or (f) above or appointed under paragraph 1(2) above shall not be eligible for re-election or re-appointment as such if he has served as a member for a period amounting in the aggregate to ten years unless an interval of five years has elapsed since he last ceased to be a member.
- 7 The quorum of the Council shall be ten.

## PART II

### GENERAL PROVISIONS

- 8 The Council shall be a body corporate, with perpetual succession and a common seal.
- 9 (1) A member of the Council appointed under paragraph 1(2) above <sup>F5</sup>... shall, if not otherwise a member of the General Synod, be an ex-officio member—
- (a) in the case of a bishop, of the House of Bishops,
  - (b) in the case of any other clerk in Holy Orders, of the House of Clergy, and
  - (c) in the case of a lay person [<sup>F6</sup>who is an actual communicant (as defined in [<sup>F7</sup>Rule 83(2)] of the Church Representation Rules)], of the House of Laity.
- (2) A [<sup>F8</sup> lay ] member of the Council appointed under paragraph 1(2) above who is not an actual communicant (as so defined) shall be entitled to attend at a group of sessions of the General Synod and, subject to such restrictions as may be imposed by the Standing Orders of the General Synod, to speak in any debate.

#### Textual Amendments

- F5** Words in Sch. 1 para. 9(1) omitted (1.10.2006) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), ss. 13\(a\), 16\(2\)](#); 2006 No. 2, Instrument made by Archbishops
- F6** Words in Sch. 1 para. 9(1) inserted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), ss. 13\(a\), 16\(2\)](#); 2006 No. 2, Instrument made by Archbishops
- F7** Words in Sch. 1 para. 9(1)(c) substituted (1.1.2020) by [Church Representation and Ministers Measure 2019 \(No. 1\), s. 1\(3\), Sch. 2 para. 18](#); S.I. 2019/1460, art. 2
- F8** Word in Sch. 1 para. 9(2) inserted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), ss. 13\(b\), 16\(2\)](#); 2006 No. 2, Instrument made by Archbishops

- 10 The arrangements relating to meetings of the Council shall be such as the Council may determine and, subject to paragraph 7 above, the Council shall have power to regulate its own procedure.
- 11 The validity of any proceedings of the Council shall not be affected by any vacancy among the members or by any defect in the appointment of any member.

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- 12 The application of the seal of the Council shall be authenticated by the signature of the Secretary-General or of some other person authorised by the Council, either generally or specifically, to act for that purpose.
- [<sup>F9</sup>12A(1) A document which is signed by two members of the Council and expressed (in whatever form of words) to be executed by the Council shall have the same effect as if executed under the seal of the Council.
- (2) A document which is signed by two officers of the Council authorised by the Council for that purpose, and which is expressed (in whatever form of words) to be signed on behalf of the Council, shall have the same effect as if executed under the seal of the Council.
- (3) An authorisation under sub-paragraph (2) shall have effect subject to such limitations or conditions as may be specified in it.
- (4) A document executed by the Council which makes clear on its face that it is intended to be a deed has effect, upon delivery, as a deed; and it shall be presumed, unless a contrary intention is proved, to be delivered upon its being so executed.
- (5) In favour of a person who in good faith acquires an interest in property for valuable consideration, a document shall be deemed to have been duly executed by the Council if it purports to be signed in accordance with sub-paragraph (1) or (2).]

#### Textual Amendments

- F9** Sch. 1 para. 12A inserted (1.3.2019) by Church of England (Miscellaneous Provisions) Measure 2018 (No. 7), ss. 11(4), 17(3) (with s. 11(6)(7)); S.I. 2019/67, art. 2(1)(j)

- 13 Any document purporting to be a document duly executed under the seal of the Council, or to be signed on behalf of the Council, shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed or, as the case may be, signed.
- 14 (1) It shall be within the capacity of the Council as a statutory corporation, in so far as its objects permit to do all such things and enter into all such transactions as are incidental or conducive to the discharge of its functions.
- (2) Without prejudice to the foregoing, the powers of the Council shall include power to acquire or dispose of any property and to borrow money.
- 15 (1) The Council may appoint such committees as it considers expedient and may delegate any of its functions to a committee.
- (2) Persons who are not members of the Council may be appointed to a committee.
- 16 The Council shall appoint a chief executive, to be known as “the Secretary General”, and may appoint such other officers as it may determine.
- [<sup>F10</sup>17 (1) The Council and its committees may authorise such officers as the Council may specify to carry out on its or their behalf such functions as may be specified.
- (2) The Council or any of its committees may, if it considers that any business can properly be conducted by correspondence, instruct the Secretary General or the secretary of the committee to circulate to the Council or the committee in writing or by electronic transmission proposals requiring the approval of its members.

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- (3) Unless objections to the proposal are received from members of the Council or the committee in such numbers and within such period from the date of their posting or transmission (as the case may be), as the Council or the committee may specify, the proposals shall be deemed, at the expiry of that period, to be approved by the Council or the committee with the same effect as if they had been approved at a duly convened meeting.]

#### Textual Amendments

- F10** Sch. 1 para. 17 added (19.5.2014) by Church of England (Miscellaneous Provisions) Measure 2014 (No. 1), s. 21(2), **Sch. 2 para. 13(4)**; S.I. 2014/1369, art. 2

## SCHEDULE 2

Section 5(1).

### FUNCTIONS OF CHURCH COMMISSIONERS EXCLUDED FROM SECTION 5

#### PART I

##### *FUNCTIONS RELATING TO BISHOPS*

Ecclesiastical Commissioners Act 1866 (29 & 30 Vict c. 111)  
Ecclesiastical Commissioners Measure 1926 (16 & 17 Geo 5 No. 4)  
Episcopal Endowments and Stipends Measure 1943 (6 & 7 Geo 6 No. 2)  
Section 58 of the Ecclesiastical Jurisdiction Measure 1963 (1963 No. 1)  
Church Commissioners (Miscellaneous Provisions) Measure 1975 (1975 No. 1)  
Diocese in Europe Measure 1980 (1980 No. 2)  
Bishops (Retirement) Measure 1986 (1986 No. 1)  
Section 8 of the Ecclesiastical Fees Measure 1986 (1986 No. 2)

#### PART II

##### *FUNCTIONS RELATING TO CATHEDRALS*

Cathedrals Measure 1963 (1963 No. 2)  
Cathedrals Measure 1976 (1976 No. 1)  
Care of Cathedrals (Supplementary Provisions) Measure 1994 (1994 No. 2)

## SCHEDULE 3

Section 6(1).

### TRANSFER OF OFFICERS

#### *Effect of transfer on contracts of employment, etc.*

- 1 (1) Except where objection is made under subsection (6) below, a transfer shall not operate so as to terminate a contract of employment, but any contract which would

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otherwise have been terminated by the transfer shall have effect after the transfer as if originally made between the transferred officer concerned and the common employer.

- (2) Without prejudice to sub-paragraph (1) above, but subject to sub-paragraphs (3) and (6) below, on the completion of a transfer—
  - (a) all the transferor body's rights, powers, duties and liabilities under or in connection with any such contract shall be transferred by virtue of this paragraph to the common employer, and
  - (b) anything done before the transfer is completed by or in relation to the transferor body in respect of that contract shall be deemed to have been done by or in relation to the common employer.
- (3) Any rights, powers, duties and liabilities of the transferor body in respect of the provision of old age, invalidity or survivors' benefits under a pension scheme shall be transferred only to the extent that those benefits relate to a period of employment of the transferred officer after the transfer or to any voluntary contribution to the scheme made by him after the transfer.
- (4) Sub-paragraph (2) above shall not transfer or otherwise affect the liability of any person to be prosecuted for, convicted of and sentenced for any offence.
- (5) In the case of an officer transferred from the Church Commissioners or the Pensions Board, sub-paragraph (2) above shall not operate to transfer rights and powers in connection with any loan made to that officer.
- (6) Sub-paragraphs (1) and (2) above shall not operate to transfer a contract of employment and the rights, powers, duties and liabilities under or in connection with it if the employee to whom it relates informs the transferor body or the common employer that he objects to becoming employed by the common employer.
- (7) Where an employee so objects this paragraph shall operate so as to terminate his contract of employment with the transferor body but he shall not be treated, for any purpose, as having been dismissed by that body.
- (8) Sub-paragraphs (1) and (6) above are without prejudice to any right of an employee arising apart from this paragraph to terminate his contract of employment without notice if a substantial change is made in his working conditions to his detriment; but no such right shall arise by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

#### *Effect of transfer on collective agreement*

2

Where at the time of the transfer of an officer there exists a collective agreement as defined in the <sup>M15</sup>Trade Union and Labour Relations (Consolidation) Act 1992 made by or on behalf of the transferor body with a trade union recognised by that body in respect of that officer, then without prejudice to sections 179 and 180 of that Act (collective agreements presumed to be enforceable in specified circumstances) that agreement, in its application in relation to that officer, shall, after the transfer, have effect as if made by or on behalf of the common employer with that trade union, and accordingly anything done under or in connection with it, in its application as aforesaid, by or in relation to the transferor body before the transfer, shall, after the transfer, be deemed to have been done by or in relation to the common employer.

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**Marginal Citations**

**M15** 1992 c. 52.

*Dismissal of an officer because of transfer*

- 3 (1) Where either before or after a transfer, an officer of the transferor body or the common employer is dismissed, that officer shall be treated for the purpose of Part X of the <sup>M15</sup>Employment Rights Act 1996 (unfair dismissal) as unfairly dismissed if the transfer or a reason connected with it is the reason for the dismissal.
- (2) Where an economic, technical or organisational reason entailing changes in the workforce of either the transferor body or the common employer before or after a transfer is the reason or principal reason for dismissing an officer—
- (a) sub-paragraph (1) above shall not apply to the dismissal, but
  - (b) without prejudice to the application of section 98(4) of the said Act of 1996 (test of fair dismissal), the dismissal shall for the purpose of section 98(1) of that Act (substantial reason for dismissal) be regarded as having been for a substantial reason of a kind such as to justify the dismissal of an officer holding the position which that officer held.

**Marginal Citations**

**M16** 1996 c. 18.

*Continuity of employment*

- 4 For the purpose of any enactment any period during which the transferred officer was employed by the transferor body before the transfer shall count as a period of employment with the common employer, and the change of employer shall not break the continuity of the period of employment.

*Interpretation*

- 5 In this Schedule— “common employer” in relation to a transfer means the body to whom the transfer is made; “transfer” means a transfer of employment in pursuance of an agreement such as is mentioned in section 6 above; “transferor body” in relation to an officer means the person or body by whom the officer was employed immediately before the transfer.

SCHEDULE 4

Section 7(1).

AMENDMENTS OF CHURCH COMMISSIONERS MEASURE 1947

- 1 The <sup>M17</sup>Church Commissioners Measure 1947 shall be amended as follows.

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### **Marginal Citations**

**M17** 10 & 11 Geo. 6 No. 2.

- 2 In section 4(2) paragraph (b) shall be omitted.
- 3 In section 5—
- (a) for subsection (1) there shall be substituted—
- “(1) The Board shall consist of the Commissioners mentioned in paragraph 1(b) of Schedule 1 to this Measure.”;
- (b) in subsection (4)—
- (i) for paragraph (a) there shall be substituted—
- “(a) to refer for consideration and report any matter within their jurisdiction to the Assets Committee or the Audit Committee, or to any other committee which the Board may appoint for the purpose or which the Board and the Archbishops’ Council acting jointly may appoint.”;
- (ii) in paragraph (b) and (c) the words “the General Purposes Committee or” shall be omitted;
- (c) after subsection (4) there shall be inserted—
- “(4A) Commissioners shall constitute a majority of the members of any committee appointed under subsection (4)(a) above.”;
- (d) subsection (5) shall be omitted.
- 4 In section 6—
- (a) for subsection (1) there shall be substituted—
- “(1) There shall be two committees, one to be known as the Assets Committee and the other as the Audit Committee, which shall be constituted as follows—
- (a) the Assets Committee shall comprise the First Church Estates Commissioner, two Commissioners being clerks in Holy Orders (at least one being a Commissioner elected by the House of Clergy of the General Synod) appointed for three years by the Board and not less than four nor more than six lay Commissioners appointed for three years by the Archbishop of Canterbury (at least one being a Commissioner elected by the House of Laity of the General Synod) being persons who in his opinion are well qualified to assist in the management of the assets of the Commissioners;
- (b) the First Church Estates Commissioner shall be the chairman of the Assets Committee and a deputy chairman shall be elected annually by that committee and shall act as chairman at any meeting at which the chairman is not present;
- (c) if a member of the Assets Committee appointed by the Board ceases to have the qualifications by virtue of which



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he was qualified for his appointment, he shall vacate his appointment;

- (d) the Audit Committee shall comprise not less than four nor more than six persons appointed by the Board for three years, of whom at least one shall be an elected Commissioner and at least two shall be persons who are not Commissioners;
  - (e) the Board, with the agreement of the Archbishop of Canterbury, shall appoint a member of the Audit Committee to be the chairman of that committee;
  - (f) the Church Estates Commissioners, the chairman of the Board and the acting chairman of the Board (elected under section 5(2) above to act as chairman, when required during the following period of twelve months) shall not be eligible to be members of the Audit Committee.”;
- (b) subsection (2) shall be omitted;
  - (c) after subsection (3A) there shall be inserted—

“(3B) The Audit Committee shall have the following functions—

- (a) a duty to review the Commissioners’ accounting policies and practices, their annual accounts and any reports made and advice given to the Commissioners by the auditor appointed under section 11(2) below;
- (b) a duty to keep under review the effectiveness of the Commissioners’ internal control system;
- (c) a duty to consider any representations made to them;
- (d) a duty to advise on the appointment of an auditor under section 11(2) below and to discuss with the auditor the conduct of the audit;
- (e) a duty to report to those Commissioners who are not members of the Board on any matter relating to the functions and business of the Commissioners which causes the committee grave concern and about which the Board has been unable to satisfy the committee.

(3C) The Commissioners’ officers shall supply the Audit Committee with such information in their possession as the Committee may require to enable the Committee to exercise their functions.”;

- (d) in subsection (4) the words “of the General Purposes Committee or” shall be omitted.

5 In section 7(2) for the words from the beginning of paragraph (c) to “Assets Committee” there shall be substituted the words “ the Assets Committee and the Audit Committee ”.

6 In section 10(1) at the end there shall be inserted the words “ or on such other date as the Commissioners may in general meeting determine ”.

7 In section 17(1) for the words “General Purposes Committee” there shall be substituted the word “ Board ”.

8 In Schedule I—

- (a) for paragraph 1 there shall be substituted—

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- “1 The Commissioners shall be—
- (a) the following office-holders—
- the First Lord of the Treasury;
  - the Lord President of the Council;
  - the Secretary of State for the Home Department;
  - the Lord Chancellor;
  - the Speaker of the House of Commons;
  - the Secretary of State for the Department for Culture, Media and Sport;
- (b) the following other persons—
- the Archbishops of Canterbury and York;
  - the Church Estates Commissioners;
  - four bishops elected by the House of Bishops of the General Synod from among their number;
  - two deans or provosts elected by all the deans and provosts;
  - three other clerks in Holy Orders elected by those members of the House of Clergy of the General Synod who are not deans or provosts;
  - four lay persons elected by the House of Laity of the General Synod;
  - nine persons nominated as follows—
    - (i) three persons by Her Majesty,
    - (ii) three persons by the Archbishops of Canterbury and York acting jointly, and
    - (iii) three persons by the Archbishops of Canterbury and York acting jointly after consultation with the Lord Mayors of the City of London and the City of York, the Vice Chancellors of the Universities of Oxford and Cambridge and such other persons as appear to the Archbishops to be appropriate;
- at least one of those nine persons being or having been of Counsel to Her Majesty.”;

- (b) for paragraph 2 there shall be substituted—

“2 Elected Commissioners shall hold office for five years and shall be elected at such time and in such manner as the General Synod may from time to time determine, but if the Synod alters the time at which they are to be elected the period of office of those Commissioners who are then in office shall be extended or reduced accordingly, as the circumstances require.

Nominated Commissioners shall hold office for such number of years as the person or persons making the nomination may determine.

In this paragraph the expression “year” means a period of twelve months commencing on the first day of April.

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Any such Commissioner as is referred to in this paragraph shall be eligible for re-election or re-nomination.”;

- (c) in paragraph 3—
  - (i) for the word “appointment” there shall be substituted the word “election”;
  - (ii) for the word “appointed” in both places where it appears there shall be substituted in each case the word “elected”;
- (d) for paragraph 5 there shall be substituted—

“5 If an elected Commissioner who was qualified for election by virtue of being a bishop, a dean or provost, a clerk in Holy Orders or a lay person ceases to be so qualified, he shall cease to be a Commissioner.”;
- (e) for paragraph 5A there shall be substituted—

“5A (1) Without prejudice to paragraph 5 above, if a Commissioner elected by members of a House of the General Synod ceases to be a member thereof, then, subject to paragraph (2) below, he shall cease to be a Commissioner.

(2) If a Commissioner to whom sub-paragraph (1) above applies ceases to be a member of the General Synod by reason of the dissolution of that Synod he shall not cease to be a Commissioner by virtue of that sub-paragraph; but if he does not stand for re-election to the General Synod or is not re-elected an election to fill his place as a Commissioner shall be held at the first meeting of the new Synod and he shall thereupon cease to be a Commissioner.”.

9

In Schedule IV—

- (a) in paragraph 1 for the words from “appointment” to the end there shall be substituted the words “election or nomination of any member or, in relation to a committee, in the appointment of any member”;
- (b) in paragraph 2—
  - (i) for the words “an appointed” there shall be substituted the words “an elected”;
  - (ii) for the word “appointed” there shall be substituted the word “elected”;
- (c) for paragraph 3 there shall be substituted—

“3 Casual vacancies among elected or nominated Commissioners may be filled by the person or body by whom the Commissioner vacating office was elected or nominated. Casual vacancies among appointed members of a committee may be filled by the person or body by whom the member vacating office was appointed.”;
- (d) in paragraph 4 before the word “appointed” in both places where it appears there shall in each case be inserted the word “elected”;
- (e) in paragraph 5 the proviso shall be omitted;
- (f) in paragraph 7 for the words “General Purposes Committee and the Assets Committee” there shall be substituted the words “Assets Committee and the Audit Committee”.

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## SCHEDULE 5

Section 13(1).

## AMENDMENT OF ENACTMENTS

*Diocesan Stipends Funds Measure 1953*

- 1 In the <sup>M18</sup>Diocesan Stipends Funds Measure 1953—
- (a) in section 4(1) after paragraph (b) there shall be inserted the following paragraphs—
- “(ba) participation in any collective investment scheme operated for the purposes of this paragraph by the Commissioners;
- (bb) investment in any investments fund or deposit fund constituted under the Church Funds Investment Measure 1958;
- (bc) investment under the powers conferred on a trustee by the Trustee Investments Act 1961, as relaxed or extended by any order or regulations made under section 70 or 71 of the Charities Act 1993;”;
- (b) in section 5(1) after paragraph (aa) there shall be inserted the following paragraph—
- “(ab) in paying secondary Class 1 contributions under section 6 of the Social Security Contributions and Benefits Act 1992 in respect of ministers of the Church of England who are not employed under a contract of service; and”.

**Marginal Citations**

**M18** 1953 No. 2.

*Church Representation Rules*

- 2 In the <sup>M19</sup>Synodical Government Measure 1969 in Schedule 3 (Church Representation Rules)—
- (a) in rule 40(1) for the words “Standing Committee” there shall be substituted the words “ Business Committee of the General Synod ”;
- (b) in rule 42(1) at the end there shall be inserted—
- “(g) the members of the Archbishops’ Council who are actual communicants”;
- (c) in rule 44 for paragraph (8) there shall be substituted the following paragraph—
- “(8) An appeal arising out of an election or choice of members of the House of Laity of the General Synod shall, within the period of fourteen days of the appeal being lodged, be referred to the Chairman and Vice-Chairman of that House unless, within that period, the appellant withdraws the appeal in writing. Subject to paragraph (9) of this rule, the Chairman and Vice-Chairman acting jointly shall appoint three persons from an appeal panel consisting of the Dean of the Arches and Auditor, the Vicar General of the Province of Canterbury, the Vicar General of the Province of

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York and twelve members of the House of Laity of the General Synod nominated by the Appointments Committee of the Church of England to consider and decide the appeal.”;

- (d) in rule 44(9) for the words “Standing Committee” there shall be substituted the words “ General Synod ”;
- (e) in rules 54(8)(a) and (c) for the words “Standing Committee” there shall be substituted in each case the words “ Business Committee of the General Synod ”.

**Marginal Citations**

**M19** 1969 No. 2.

*Repair of Benefice Buildings Measure 1972*

- 3 In the <sup>M20</sup>Repair of Benefice Buildings Measure 1972 in section 31(1) in the definition of “team vicar’s house” the words “as part of the diocesan glebe land of the diocese” shall be omitted.

**Marginal Citations**

**M20** 1972 No. 2.

*Endowments and Glebe Measure 1976*

- <sup>F11</sup>4 .....

**Textual Amendments**

**F11** Sch. 5 para. 4 repealed (1.3.2019) by Church Property Measure 2018 (No. 8), s. 53(2), Sch. 3 (with Sch. 2); S.I. 2019/97, art. 2

*Pastoral Measure 1983*

- <sup>F12</sup>5 .....

**Textual Amendments**

**F12** Sch. 5 para. 5 repealed (1.7.2012) by Mission and Pastoral Measure 2011 (No. 3), s. 112(3), Sch. 9 (with ss. 100, 105(4), 107, 108(6), Schs. 8); 2012 No. 1, art. 2

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