



Pastoral Measure 1983 (repealed)

1983 No. 1

PART III

REDUNDANT CHURCHES

Appointment of statutory bodies for purposes relating to redundant churches

^{F1}41 Appointment of Advisory Board for Redundant Churches.

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Textual Amendments

F1 S. 41 repealed (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 7](#) (with [Sch. 6 paras. 1-5](#)); [2007 No. 3](#), Instrument made by Archbishops

^{F2}42 Functions of mission and pastoral committee concerning buildings closed for regular public worship

- (1) The mission and pastoral committee shall be under a duty, in respect of each church proposed to be closed or building closed for regular public worship (except where it is proposed to close a church and make provision for the future of the building under section 46)—
 - (a) in the case of a listed building or a building situated in a conservation area, to make every endeavour to find a suitable alternative use or suitable alternative uses for the building, and
 - (b) in the case of any other building, to develop proposals for the suitable alternative use or uses of the building or for the demolition of the building and the disposal of its site.
- (2) In carrying out its functions under this section the mission and pastoral committee shall obtain advice from the Commissioners, persons having expertise in the management,

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Changes to legislation: There are currently no known outstanding effects for the Pastoral Measure 1983 (repealed), Part III. (See end of Document for details)

development and disposal of property and such other professional advisers as it thinks fit.

- (3) The mission and pastoral committee shall report to the Commissioners at such times as it thinks appropriate on the progress made in discharging its duties under subsection (1) and, in any case, within the period of six months from its last report, and also when required to do so by the Commissioners.
- (4) When the mission and pastoral committee has found a suitable alternative use or suitable alternative uses for the building or has reached the conclusion that no such use can be found or has developed proposals in accordance with subsection (1)(b) above it shall report to the Commissioners with its recommendations or proposals.
- (5) The Commissioners may, in the case of any building closed for regular public worship, require the mission and pastoral committee to refer the case to them and, thereupon, the duties under subsection (1) shall be discharged by the Commissioners instead of the committee, but the Commissioners shall, in carrying out that duty, consult the committee.]

Textual Amendments

- F2** S. 42 substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 41, 66(2)** (with [Sch. 6 paras. 1-5](#)); [2007 No. 3](#), Instrument made by Archbishops

43 Commissioners to appoint Committee with duties in respect of redundant churches.

- (1) The Board of Governors of the Commissioners shall appoint a Committee of the Board for the purpose of exercising on behalf of the Commissioners such functions as the Board may assign them in relation to redundant buildings and the preparation of redundancy schemes, including functions under section 42; Commissioners shall constitute a majority of the members of the Committee but, subject to that, the Committee may include persons who are not Commissioners.
- (2) The ^{M1}Church Commissioners Measure 1947 shall apply to the Committee appointed under this section as it applies to other committees of the Board, and the Commissioners may pay a salary to one of the members of the Committee.

Marginal Citations

- M1** [1947 No. 2](#).

44 Appointment of Redundant Churches Fund.

- (1) There shall be a body corporate, to be called the Redundant Churches Fund, with perpetual succession and a common seal.
- (2) The Redundant Churches Fund shall consist of a chairman and not less than four nor more than [^{F3}nine] other members, and the chairman and other members shall be appointed by Her Majesty, and before any such appointment the advice of the Archbishops of Canterbury and York shall be submitted to Her Majesty through the Prime Minister.

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- (3) Paragraphs 13 to 15 of Schedule 5 shall apply to the constitution and procedure of the Redundant Church Fund.
- (4) The Redundant Churches Fund shall have as its object the preservation, in the interests of the nation and the Church of England, of churches and parts of churches of historic and archaeological interest or architectural quality vested in the Fund by this Part, together with their contents so vested.
- (5) The Redundant Churches Fund shall have power—
- (a) to hold and manage all churches and parts of churches and other property vested in the Fund by this Part [^{F4}or acquired under subsection (5A)] and, in particular, to carry out all necessary works of maintenance and repair in respect of that property [^{F5}and to replace, renew and provide or improve such services or facilities as are required to facilitate greater access to and use of that property]
 - [^{F6}(aa) to acquire property (including rights of way) where the Trust considers that to do so would assist it in the exercise of its powers under paragraph (a);]
 - (b) to permit the occasional use of property, or to grant a licence permitting the temporary use of property, vested in the Fund for purposes considered by the Fund to be suitable and, in any case, either without charge or on payment of a fee;
 - [^{F7}(bb) to let any property vested in the Fund on such terms (including terms as to the purposes for which it may be used) as the Commissioners may approve, after consultation with the bishop and the Advisory Board, being terms which the Commissioners consider reasonable and proper having regard to all the circumstances;
 - (bbb) in respect of any property which the Fund has let or is proposing to let under paragraph (bb), to carry out such works as the Fund considers desirable, after consultation with the Advisory Board;]
 - (c) to charge entrance fees for admission to any [^{F8}property vested in the Fund], to raise money by public subscription and appeals, and to accept gifts and bequests either for the general purposes of the Fund or on specific trusts for purposes falling within the general purposes;
 - [^{F9}(cc) to assist, on payment of a fee, in the management of any place of Christian religious worship (not being a church or part of a church) which is vested in any body entrusted with functions similar to those of the Fund;]
 - (d) to administer all sums coming into its hands and to invest as hereinafter provided any sums not immediately required for the purposes of the Fund;
 - (e) to appoint a secretary and such other officers and agents as the Fund considers necessary for the proper discharge of its duties;
 - (f) to delegate functions to local trustees or bodies.
- [^{F10}(5A) Where the freehold interest in a redundant church or any land annexed or belonging thereto has been disposed of under a redundancy scheme or [^{F11}pastoral church buildings scheme to which section 46 or 47 applies and the owner of that freehold interest is unable for any reason to use the redundant church for the use specified in the scheme including any use allowed under any covenant imposed in relation to the scheme under section 62 and is willing to dispose of the freehold interest by way of gift, the Churches Conservation Trust may, with the prior consent in writing of the Commissioners, acquire the freehold by way of gift but, before consenting to such an acquisition, the Commissioners shall—

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- (a) consult the bishop and the Advisory Board;
 - (b) be satisfied that the Churches Conservation Trust will have the resources to meet the cost of maintaining the redundant church.
- (5B) The Commissioners shall seal the deed of transfer of any land acquired under subsection (5A).]
- [^{F12}(6) The powers to invest any [^{F13}sums referred to in subsection (5)(d)] are—
- (a) power to invest in investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (as restricted by sections 4 and 5 of that Act); and
 - (b) power to invest in the investments referred to in paragraph 21(1)(e) and (f) of the Schedule to the Church Funds Investment Measure 1958.]
- [^{F14}(7) The powers conferred on the Redundant Churches Fund by subsection (5)(b) and (bb) may be exercised so as to permit the use of a church or part of a church vested in the Fund for such worship (including worship by persons belonging to other Christian Churches) as may be authorised by the bishop after consulting the incumbent or priest in charge of the benefice in the area of which the church is situated.]
- [^{F15}(7A) The terms of a lease granted under subsection (5)(bb) in respect of any property may provide that the property shall not be subject to the legal effects of consecration during the currency of the lease, notwithstanding the provisions of section 61(2).
- (7B) Where any such property has been let under subsection (5)(bb) and the terms of the lease provide to the effect that no alteration may be made thereto without the approval of the Redundant Churches Fund, its approval shall only be given after consultation with the Advisory Board.
- (7C) A statement in a document signed by the secretary or other duly authorised officer of the Commissioners that the Commissioners have approved the terms of any lease granted under subsection (5)(bb) which is specified in the document shall be conclusive evidence that those terms have been so approved.
- (7D) As a condition of giving their approval to the terms of any lease under subsection (5)(bb) the Commissioners may require the Redundant Churches Fund to include in the lease such provisions, if any, as appear to them to be necessary to give effect to those terms.]
- (8) The Redundant Churches Fund may contribute to the cost of the care and maintenance of a church or part of a church vested in a diocesan board of finance under this Part pending the making or coming into operation of arrangements under a redundancy scheme.
- (9) All expenditure of the Redundant Churches Fund shall be defrayed out of the sums in its hands. ^{F16} . . .
- [^{F17}(9A) The Redundant Churches Fund shall give to the Commissioners and to the Advisory Board such information and advice as the Commissioners or the Advisory Board may, from time to time, require about—
- (a) the Fund's financial position generally; and
 - (b) the estimated cost of repairing and thereafter maintaining any church or part of a church which is proposed to be vested in the Fund or which the Commissioners consider is likely to be proposed for vesting in the Fund.]

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[^{F18}(9B) If—

- (a) the Church Buildings Council has prepared a report, under section 3(8), about a church in respect of which the mission and pastoral committee is considering whether to make a recommendation that a declaration of closure for regular public worship be made, and
- (b) the Commissioners, after consulting the Council, are of the opinion that, in the event of the church being closed for regular public worship and no suitable alternative use being found for it, it is likely that the building is of such historic and archaeological interest or architectural quality that it ought to be preserved in the interests of the nation and the Church of England,

the Commissioners may, with the consent of the mission and pastoral committee, and subject to any conditions or limitations which they may specify, request the Churches Conservation Trust to give advice to them and, if specified, advice or assistance to any other specified person or body, in identifying and developing proposals for any use or uses of the church, or any part of it, which would be consistent with the primary use of the church as a whole as a place of worship and which would have the object of ensuring the continuance of that use.

(9C) Notwithstanding subsection (4), the Trust shall have power to give such advice and assistance as is described in subsection (9B).]

(10) The Commissioners may make grants out of their general fund in respect of the expenditure of the Redundant Churches Fund:

Provided that the total amount of the grants made in any [^{F19}funding period] shall not exceed the figure determined in respect of that period in accordance with section 53.

(11) The Redundant Churches Fund shall, as soon as possible after the end of each [^{F20}accounting] year, transmit a copy of its accounts for that year and a report on its proceedings during that year to the Commissioners and to the Advisory Board [^{F21}; and in this subsection “accounting year” means the period of twelve months beginning on a date to be determined by the Fund with the agreement of the Commissioners].

[^{F22}(12) The Churches Conservation Trust shall transmit copies of the said accounts and report to the Secretary of State and the Secretary of State shall lay copies thereof before each House of Parliament and the Commissioners shall transmit copies of the said accounts and report to the Secretary General of the General Synod and the Secretary General shall lay copies thereof before the General Synod.]

Textual Amendments

- F3** Word in s. 44(2) substituted (1.1.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), **Sch. 5 para. 7(b)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F4** Words in s. 44(5)(a) inserted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), **Sch. 4 para. 11(a)**; 2005 No. 2, Instrument made by Archbishops
- F5** Words in s. 44(5)(a) added (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), **Sch. 4 para. 11(a)**; 2005 No. 2, Instrument made by Archbishops
- F6** S. 44(5)(aa) inserted (1.9.1995) by 1995 No. 2, **s. 11(b)**; Instrument dated 26.7.1995 made by [Archbishops of Canterbury and York](#).
- F7** S. 44(5)(bb)(bbb) inserted (1.4.1994) by 1994 No. 1, **s. 2(2)(a)**; Instrument dated 25.3.1994 made by [Archbishops of Canterbury and York](#).
- F8** Words in s. 44(5)(c) substituted (1.4.1994) by 1994 No. 1, **s. 2(2)(b)**; Instrument dated 25.3.1994 made by [Archbishops of Canterbury and York](#).

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- F9** S. 44(5)(cc) inserted (1.4.1994) by 1994 No. 1, **s. 2(2)(c)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F10** S. 44(5A)(5B) inserted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 4 para. 11(b)**; 2005 No. 2, Instrument made by Archbishops
- F11** Words in Pt. 3 substituted (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), **ss. 40(2), 66(2)** (with **Sch. 6 paras. 1-5**); 2007 No. 3, Instrument made by Archbishops
- F12** S. 44(6) substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. III para. 55** (with s. 35); S.I. 2001/49, **art. 2**
- F13** Words in s. 44(6) substituted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 4 para. 11(c)**; 2005 No. 2, Instrument made by Archbishops
- F14** S. 44(7) substituted (1.4.1994) by 1994 No. 1, **s. 2(3)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F15** S. 44(7A)-(7D) inserted (1.4.1994) by 1994 No. 1, **s. 2(4)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F16** Words in s. 44(9) repealed (1.4.1994) by 1994 No. 1, **s. 2(5)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F17** S. 44(9A) inserted (1.4.1994) by 1994 No. 1, **s. 2(6)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F18** S. 44(9B)(9C) inserted (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), s. 66(2), **Sch. 5 para. 7(c)** (with **Sch. 6 paras. 1-5**); 2007 No. 3, Instrument made by Archbishops
- F19** Words in s. 44(10) substituted (1.4.1994) by 1994 No. 1, **s. 2(7)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F20** Word in s. 44(11) substituted (1.4.1994) by 1994 No. 1, **s. 2(8)(a)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F21** Words in s. 44(11) inserted (1.4.1994) by 1994 No. 1, **s. 2(8)(b)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F22** S. 44(12) substituted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 4 para. 11(d)**; 2005 No. 2, Instrument made by Archbishops

Modifications etc. (not altering text)

- C1** S. 44 amended (1.4.1994) by 1994 No. 1, **s. 13(2)**; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- C2** S. 44 modified (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), s. 66(2), **Sch. 5 para. 7(a)** (with **Sch. 6 paras. 1-5**); 2007 No. 3, Instrument made by Archbishops

^{F23} 45 Power to establish new body to replace the Advisory Board and the Redundant Churches Fund

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Textual Amendments

- F11** Words in Pt. 3 substituted (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), **ss. 40(2), 66(2)** (with **Sch. 6 paras. 1-5**); 2007 No. 3, Instrument made by Archbishops
- F23** S. 45 repealed (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), s. 66(2), **Sch. 7** (with **Sch. 6 paras. 1-5**); 2007 No. 3, Instrument made by Archbishops

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Redundancy provisions in [F¹¹pastoral church buildings schemes]

46 Provision by [F¹¹pastoral church buildings scheme] for appropriation or demolition of redundant church to be replaced by new church.

(1) [F²⁴Where the Commissioners are satisfied that a new church or place of worship is to be provided in the area of a benefice to take the place of a church building or church buildings in that area which should thereupon be declared closed for regular public worship and where the Commissioners, after consulting the Church Buildings Council, are satisfied with the proposals made for the future of the church building or any of the church buildings to be closed, then a pastoral church buildings scheme may further provide—]

- (a) for the appropriation of the redundant building in accordance with section 51(1)(a) or for its demolition, and for any of the matters mentioned in section 51(2), (3) or (4);
- (b) for the payment to the Commissioners of the proceeds of any sale or exchange of the building or the site thereof, or any part of the building or site, with or without any land annexed or belonging thereto, and the premiums on any lease or licence of the building or site or any part of the building or site with or without any such land; and
- (c) subject to subsection (8), for the application of the net proceeds and net premiums to defray the cost of providing the new church or place of worship aforesaid and, if the whole amount thereof is not required for that purpose, for the payment of two-thirds of the balance to the diocesan pastoral account and for the application by the Commissioners of the remaining one-third in accordance with section 52.

(2) [F¹¹A pastoral church buildings scheme] which provides for the demolition of a redundant building may provide for its demolition by the diocesan board of finance

F²⁵ ...
F²⁶(3)

F²⁶(4)

F²⁶(5)

F²⁶(6)

(7) Where [F¹¹a pastoral church buildings scheme] makes such provision as is mentioned in subsection (1), the declaration of redundancy shall not take effect until the new church or place of worship is provided unless the Commissioners are satisfied that, if the church or any of the churches to be replaced is disposed of or demolished before such provision, a suitable building will be available in the interim period, not necessarily in the same parish, for use in place of that church.

(8) Where before a declaration of redundancy is made by [F¹¹a pastoral church buildings scheme] under this section in respect of a church which was the subject of a sharing agreement under the ^{M²}Sharing of Church Buildings Act 1969 and which on the termination of the agreement was vested in an incumbent by section 9(3) of that Act, any contribution in the nature of capital made in accordance with the agreement by any party thereto, other than a party acting on behalf of the Church of England, or so much thereof as the Commissioners may determine, may be repaid to that party by the Commissioners out of the proceeds of any sale or exchange, or the premiums on

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any lease or licence, of that church, any part of that church or the site thereof before the net proceeds or net premiums, as the case may be, are applied in accordance with subsection (1)(c).

- (9) References in this section to the provision of a new place of worship shall be construed as including references to the provision of such a place by adapting, improving or repairing an existing building.
- (10) In this section “place of worship” means a building licensed by the bishop for public worship in accordance with the rites and ceremonies of the Church of England, being a building used wholly for the purposes of such worship and purposes ancillary thereto, or partly for those purposes and partly for other ecclesiastical purposes of the parish or purposes ancillary thereto, and includes a building which, pursuant to an agreement under the ^{M3}Sharing of Church Buildings Act 1969, is to be used as a place of worship jointly with another church and is to be owned by the Church of England only or to be jointly owned by that Church and any other Church.

Textual Amendments

- F24** Words in s. 46(1) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 42(a)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F25** Words in s. 46(2) omitted (11.6.2008) by virtue of [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 42(b)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F26** S. 46(3)-(6) omitted (11.6.2008) by virtue of [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 42(c)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops

Marginal Citations

- M2** 1969 c. 38.
M3 1969 c. 38.

47 Other provision by [^{F11}a pastoral church buildings scheme] for redundant church.

- (1) Where [^{F11}a pastoral church buildings scheme] makes a declaration of redundancy in respect of any church or part of a church, not being a case to which section 46 applies, and the Commissioners are satisfied that a suitable use or uses will be available for the redundant building when the declaration takes effect, [^{F11}the pastoral church buildings scheme] may provide for the appropriation of the redundant building to the said use or uses, and may make further provision for any of the matters mentioned in section 51(2) and section 51(5)-(11) shall apply.
- (2) Where [^{F11}a pastoral church buildings scheme] makes a declaration of redundancy in respect of any church or part of a church and the Commissioners are satisfied that no suitable or appropriate alternative use will be available for the redundant building when the declaration takes effect, then, if it appears to the Commissioners
- [^{F27}(a) after consultation with the [^{F28}Church Buildings Council] that the building is of such historic and archaeological interest or architectural quality that it ought to be preserved in the interests of the nation and the Church of England; and
- (b) that the Redundant Churches Fund will have the resources to meet the cost of repairing and maintaining it,
- the scheme may provide for its care and maintenance by the Fund.]

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- (3) Where [^{F11}a pastoral church buildings scheme] provides for the care and maintenance of a redundant building or any part thereof by the said Fund, the scheme may also provide for the care and maintenance by the Fund of the whole or any part of the land annexed or belonging to the building or the church of which the building is part, and may so provide notwithstanding that the land is or has been used for burials.
- [^{F29}(3A) Where a pastoral church buildings scheme contains a declaration of closure of a church for regular public worship and the church is neither a listed building nor situated in a conservation area, and the Commissioners are satisfied with the proposals for the future of the building, the scheme may provide for the demolition of the building closed for regular public worship and for any of the matters for which section 51(4) makes provision and section 51(5) to (11) shall apply accordingly.]

Textual Amendments

- F27** Words in s. 47(2) substituted (1.4.1994) by [1994 No. 1, s. 3](#); Instrument dated 25.3.1994 made by [Archbishops of Canterbury and York](#).
- F28** Words in s. 47(2) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 43\(a\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); [2007 No. 3](#), Instrument made by [Archbishops](#)
- F29** S. 47(3A) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\), ss. 43\(b\), 66\(2\)](#) (with [Sch. 6 paras. 1-5](#)); [2007 No. 3](#), Instrument made by [Archbishops](#)

48 No other cases to be dealt with by [^{F11}pastoral church buildings scheme].

Except in the cases specified in sections 46 and 47 and without prejudice to the provisions relating to the restoration of a redundant building to use as a church, no further provision beyond the declaration of redundancy itself shall be made by [^{F11}a pastoral church buildings scheme] with respect to the redundant building, but such provision shall be made by the following provisions of this Part and schemes made ^{F30}... thereunder (in this Measure referred to as “redundancy schemes”).

Textual Amendments

- F30** Words in s. 48 omitted (1.6.2005) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\), s. 11\(2\), Sch. 4 para. 12](#); [2005 No. 2](#), Instrument made by [Archbishops](#)

Redundancy schemes

49 [^{F31}Use seeking period]

- (1) Where a declaration of redundancy is made in a case to which neither section 46 nor section 47 applies, the redundant building, together with the contents thereof, shall, when the declaration takes effect, vest by virtue of this Measure, without any conveyance or other assurance, in the diocesan board of finance.

^{F32}...

[^{F33}Provided that the Commissioners shall not prepare a pastoral (church buildings disposal) scheme in respect of a building closed for regular public worship for a period of six months after the declaration takes effect if the scheme provides for the demolition of a building which is either a listed building or situated in a conservation

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area, unless the Commissioners are satisfied, after consulting the Church Buildings Council, that, at that stage, there is no objection to the demolition taking place.]

- (2) During the period between the taking effect of a declaration of redundancy and the coming into operation of a redundancy scheme with respect to the redundant property—
- (a) the diocesan board of finance shall be responsible for the care and maintenance of the redundant building, so far as is reasonable in all the circumstances, and the safe keeping of its contents, whether in the building or elsewhere, and shall insure the said building and contents;
 - (b) the said board may without obtaining a faculty^{F34}, but after consulting the Diocesan Advisory Committee and the chancellor of the diocese unless the board considers that, having regard to the urgency of the need to safeguard the contents, it is not practicable to do so,] transfer the contents of the redundant building or any of them to some other place for safe keeping until the coming into operation of the scheme;
 - (c) the said board may with the consent of the bishop and of the incumbent or priest in charge of the benefice in the area of which the redundant building is situated permit the redundant building to be used occasionally for worship, including worship by persons belonging to other Christian Churches;
 - ^{F35}(d)
 - (e) while incurring no financial obligation, the incumbent or priest in charge and churchwardens of the parish in which the redundant building is situated shall give the diocesan board of finance every assistance in providing for reasonable supervision of the building against damage.
- (3) On a declaration of redundancy taking effect, any liability of a parochial church council or rector (including a lay rector) for the repair and maintenance of the redundant building and the safe keeping of its contents shall cease, and the ^{M4}Inspection of Churches Measure 1955 shall cease to apply to the redundant building.
- (4) Where the diocesan board of finance transfers any of the contents of the redundant building to some other place, the board shall serve a notice on the Commissioners, the [^{F36}Church Buildings Council], the Redundant Churches Fund and the registrar of the diocese informing them of the transfer and giving particulars of the contents transferred and the address of the place in question, and shall serve a similar notice on any incumbent, priest in charge, parochial church council or sequestrators concerned.

Textual Amendments

- F31** S. 49 heading substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(a), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F32** Words in s. 49(1) omitted (11.6.2008) by virtue of [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(b), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F33** Words in s. 49(1) added (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(c), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F34** Words in s. 49(2)(b) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(d), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F35** S. 49(2)(d) omitted (11.6.2008) by virtue of [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(e), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F36** Words in s. 49(4) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 44(f), 66(2)** (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops

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Changes to legislation: There are currently no known outstanding effects for the Pastoral Measure 1983 (repealed), Part III. (See end of Document for details)

Marginal Citations

M4 1955 No. 1.

50 Procedure for making redundancy schemes.

- (1) [^{F37}The Commissioners may at any time or, where the proviso to section 49(1) applies, after the period of six months mentioned therein has expired] , and shall in any case not later than [^{F38}two] years after the declaration of redundancy takes effect, prepare a draft scheme with respect to the redundant building providing for any of the matters mentioned in the next following section:

Provided that if before the end of the said period of [^{F38}two] years it is found to be impracticable to prepare the draft scheme before that period expires, and it seems to the Commissioners after consulting the diocesan board of finance, reasonable so to do, they may, with the consent of the bishop, postpone the preparation of the draft scheme for such minimum further period or periods as they find to be necessary.

- (2) [^{F39}Before preparing any such draft scheme which provides for the demolition or the care and maintenance by the Churches Conservation Trust of the building closed for regular public worship or any part thereof the Commissioners shall consult the Church Buildings Council] :

Provided that if the [^{F40}Council] has advised that the demolition of the redundant building or part thereof would not in [^{F40}its] opinion be objectionable, ^{F41}... this subsection shall not apply in relation to that building or part, as the case may be.

- [^{F42}(2A) After preparing the draft scheme and before proceeding under the following provisions of this section the Commissioners shall consult the bishop.]

- (3) [^{F43}After taking into account any comments made by the bishop, if they decide to proceed with the draft scheme,] the Commissioners shall serve a copy of the draft scheme on the diocesan board of finance, the local planning authority or authorities concerned, [^{F43}, the parish council or parish meeting concerned,] the Commonwealth War Graves Commission [^{F44}, English Heritage, the Joint Committee of the National Amenity Societies] and the [^{F45}Church Buildings Council] and, if the draft scheme provides for the care and maintenance by the Redundant Churches Fund of the redundant building or any part thereof, on that Fund.

- (4) The Commissioners shall also publish in one or more newspapers circulating in the locality in which the redundant building is situated a notice stating the effect of the draft scheme and naming a place or places where a copy thereof may be inspected, and stating that written representations with respect to the draft scheme may be made to the Commissioners not later than a date specified in the notice, being a date not less than twenty-eight days after the first publication of the notice in such a newspaper as aforesaid.

- [^{F46}(4A) Where the draft scheme makes or is to make any such provision as is referred to in section 51(1)(a) and it is proposed to make any architectural or structural changes in the building closed for regular public worship or any part thereof to facilitate the use or uses referred to in that section, the Commissioners shall not make the scheme unless they have first consulted the Church Buildings Council on those proposed changes.]

- (5) The Commissioners shall consider any representations duly made with respect to the draft scheme and any unforeseen change of circumstances affecting its

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implementation, and may decide not to proceed with it or to amend it or to proceed with it in its original form, and shall consult the bishop before making their decision.

[^{F47}(5A) The Commissioners may, if they think fit, afford an opportunity to any person, whether he has made written representations or not, to make oral representations with respect to the draft scheme.

(5B) The Commissioners may, before or after the period within which written representations may be made under this section, extend that period, and any representations made within the period so extended shall be deemed to be duly made.

(5C) The Commissioners may at any time make such amendments to the draft scheme as may appear to them to be necessary for the purposes of correcting any drafting mistake or omission.]

(6) If the Commissioners decide to proceed with the draft scheme, they shall seal a copy thereof, with such amendments (if any) as they may have made therein, and shall thereby make the scheme^{F48}

(7) If the Commissioners decide in accordance with subsection (5) not to proceed with a draft scheme, ^{F49} ..., they shall as soon as possible prepare a new draft scheme, and subsections (2) to (6) shall apply thereto.

^{F50}(8)

[^{F51}(9) Sections 10 and 11 shall apply, with the necessary modifications, to schemes under this section as they apply to [^{F52}pastoral church buildings schemes] .]

Textual Amendments

- F37** Words in s. 50(1) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 45(a)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F38** Words in s. 50(1) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 45(b)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F39** Words in s. 50(2) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 45(c)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F40** Word in s. 50(2) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 45(c)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F41** Words in s. 50(2) omitted (11.6.2008) by virtue of [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 45(c)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F42** S. 50(2A) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 45(d)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F43** Words in s. 50(3) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 45(e)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F44** Words in s. 50(3) inserted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), **Sch. 4 para. 14(a)**; 2005 No. 2, Instrument made by Archbishops
- F45** Words in s. 50(3) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 45(e)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F46** S. 50(4A) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 45(f)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F47** S. 50(5A)-(5C) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), **ss. 45(g)**, 66(2) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F48** Words in s. 50(6) omitted (1.6.2005) by virtue of [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), **Sch. 4 para. 14(b)**; 2005 No. 2, Instrument made by Archbishops

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- F49** Words in s. 50(7) omitted (1.6.2005) by virtue of Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 4 para. 14(c)**; 2005 No. 2, Instrument made by Archbishops
- F50** S. 50(8) repealed (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 4 para. 14(d)**, **Sch. 5**; 2005 No. 2, Instrument made by Archbishops
- F51** S. 50(9) substituted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), **Sch. 4 para. 14(e)**; 2005 No. 2, Instrument made by Archbishops
- F52** Words in s. 50(9) substituted (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), **ss. 45(h)**, 66(2) (with **Sch. 6 paras. 1-5**); 2007 No. 3, Instrument made by Archbishops

51 Contents of redundancy schemes.

- (1) A redundancy scheme shall make the following provision for the redundant building, that is to say:—
- (a) if a use or uses appearing to the Commissioners to be suitable have been found for the redundant building or any part thereof, the scheme may provide for appropriating the building or part to such use or uses, which shall be specified or generally described in the scheme;
 - (b) if such use or uses cannot be found for the building or a part thereof and it appears to the Commissioners -
 - ^{F53}(i) after consultation with the ^{F54}Church Buildings Council] that the building is of such historic and archaeological interest or architectural quality that it ought to be preserved in the interests of the nation and the Church of England; and
 - (ii) that the Redundant Churches Fund will have the resources to meet the cost of repairing and maintaining it,the scheme may provide for its care and maintenance by the Fund]
 - (c) if the building or any part thereof is not appropriated or provided for under paragraph (a) or (b) of this subsection the scheme may, with the consent of the diocesan board of finance, provide for the building or any part thereof to remain vested in that board and to be held by them on such terms as may be specified in the scheme;
 - (d) if the building or any part thereof is not appropriated or provided for under the foregoing paragraphs of this subsection, the scheme shall provide for its demolition ^{F55}either by the Commissioners or by the diocesan board of finance].
- (2) Where a redundancy scheme provides for the appropriation of the redundant building or any part thereof to a use or uses specified or described in the scheme, the scheme may also provide—
- (a) for appropriating the whole or any part of the land annexed or belonging to the redundant building or the church of which it forms part, to a use or uses so specified or described;
 - (b) for empowering the diocesan board of finance themselves to use or hold the property concerned for the use or uses so specified or described or to let or license the property for such use or uses as aforesaid, or partly one and partly the other;
 - (c) for empowering the Commissioners ^{F56}or the diocesan board of finance], subject to any conditions prescribed by the scheme, to sell, give or exchange the property concerned or any part of it for such use or uses as aforesaid.

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- (3) Where a redundancy scheme provides for the redundant building or any part thereof to remain vested in the diocesan board of finance, the scheme may also provide—
- (a) for appropriating the whole or any part of the land annexed or belonging to the redundant building, or the church of which it forms part, to a use or uses specified or described in the scheme;
 - (b) for empowering the said board themselves to use or hold that land or any part of it for the use or uses so specified or described or to let or license it for such use or uses as aforesaid, or partly the one and partly the other;
 - (c) for empowering the Commissioners, subject to any conditions prescribed by the scheme, to sell, give or exchange that land or any part of it for such use or uses as aforesaid;
 - (d) for transferring to the said board responsibility for the care and maintenance of that land or any part of it;
- and the scheme may provide as mentioned in paragraph (d) above notwithstanding that the land is or has been used for burials.
- (4) Where a redundancy scheme provides for the demolition of the redundant building or any part thereof, it may also provide—
- (a) for the sale, gift, exchange or lease by the Commissioners [^{F57}or the diocesan board of finance, as the case may be,] of the site or part of the site of the demolished building or part of the building, with or without the whole or any part of the land annexed or belonging to the building or to the church of which it forms part;
 - (b) for the disposal of the materials arising from the demolition;
 - (c) for specifying the use or uses for which any land sold, given, exchanged or let by the Commissioners [^{F58}there shall be inserted the words “or the diocesan board of finance, as the case may be,] as aforesaid is to be used, or allowing it to be used without limitation;
 - (d) for appropriating the said site or any part thereof for use as part of the churchyard or burial ground or for other ecclesiastical purposes of the parish.
- (5) The proceeds of any sale or exchange under subsection (2), (3) or (4) and the premiums on any lease or licence thereunder shall be paid to the Commissioners, who, subject to subsections (6), (7), (8), and (9) and to an appropriate order made under section 53(1) (b), shall pay two-thirds of the net proceeds and net premiums to the diocesan pastoral account and shall apply the remaining one-third in accordance with section 52, and the net rent payable under any such lease or licence shall be paid into the said account.
- (6) Where in exercise of the power conferred on the Redundant Churches Fund by section 44(8) the Fund has contributed to the cost of the care and maintenance of a church or part of a church, then, unless that church or part is vested in the Fund, the sum contributed by the Fund under that subsection, or so much thereof as the Commissioners may, with the agreement of the Secretary of State, determine, shall be repaid to the Fund by the Commissioners out of the proceeds of any sale or exchange, or the premiums on any lease or licence, of that church or part or the site thereof under subsection (2), (3) or (4) before the net proceeds or net premiums, as the case may be, are paid or applied in accordance with subsection (5).
- (7) Where in exercise of the said power the Redundant Churches Fund has contributed to the cost of the care and maintenance of a church or part of a church, not being a church or part which is vested in the Fund, and the church or part or the site thereof is let or licensed by the diocesan board of finance under subsection [^{F59}(2), (3) or (4)] or let by

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- the Commissioners under subsection (4), the net rent from time to time paid thereunder shall be paid by the said board or the Commissioners as the case may be, to the Fund until the sum contributed by the Fund, or so much thereof as the Commissioners may, with the agreement of the Secretary of State, determine, has been repaid to the Fund out of such rent.
- (8) Where before a declaration of redundancy was made in respect of a church or part of a church that church or part was the subject of a sharing agreement under the ^{M5}Sharing of Church Buildings Act 1969, and on the termination of the agreement it was vested in an incumbent by section 9(3) of that Act, any contribution in the nature of capital made in accordance with the agreement by any party thereto, other than a party acting on behalf of the Church of England, or so much thereof as the Commissioners may determine, may be repaid to that party by the Commissioners out of the proceeds of any sale or exchange, or the premiums on any lease or licence, of that church or part or the site thereof under subsection (2), (3) or (4) before the net proceeds or net premiums, as the case may be, are paid or applied in accordance with subsection (5).
- (9) Where [^{F11}a pastoral church buildings scheme] makes a declaration of redundancy in respect of a church, [^{F60}and the Commissioners are satisfied that a new church or place of worship is to be provided in the area of the benefice in which the first-mentioned church is situated to take the place of that church], then, if any subsequent redundancy scheme which makes provision [^{F61}, within the period of three years from the declaration of closure or such longer period as the Commissioners may allow,] for the redundant building also provides for any of the matters authorised to be included in the scheme by subsection (2)(b) or (c), subsection (3)(b) or (c) or subsection (4) (a) or (b)—
- (a) the proceeds of any sale or exchange made, and the premiums on any lease or licence granted, by virtue of those provisions shall be paid to the Commissioners in accordance with subsection (5) of this section, but
 - (b) the net proceeds and net premiums shall be applied in accordance with section 46(1)(c) and not in accordance with subsection (5).
- (10) In negotiating the sale or other disposal of any property under subsection (2), (3) or (4), the Commissioners shall consult with the diocesan board of finance.
- (11) Where a redundancy scheme makes provision for any land which has been used for burials, that provision shall have effect notwithstanding section 3 of the ^{M6}Disused Burial Grounds Act 1884 (which prohibits the erection of buildings upon disused burial grounds), if one or other of the following conditions is satisfied, namely—
- (a) that no person has been buried in any of the land during the period of 50 years immediately before the making of the scheme; or
 - (b) that no relative or personal representative of a deceased person buried in the land during that period has objected to the draft scheme, or all such objections have been withdrawn;
- and the said section shall otherwise apply.
- (12) Where a redundancy scheme provides for the care and maintenance of the redundant building or any part thereof by the Redundant Churches Fund, the scheme may also provide for the care and maintenance by the Fund of the whole or any part of the land annexed or belonging to the building or the church of which the building is part, and may so provide notwithstanding that the land is or has been used for burials.
- (13) For the purposes of this section and of sections 46 and 47, and without prejudice to the generality of the provisions thereof, the use of a building or part of a building for

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such special or occasional religious worship as may be authorised by the bishop, or its use as a place of religious worship for a university, college, school or other institution, or its use for religious worship by any Church other than the Church of England, shall be a use to which a redundant building or a part thereof may be appropriated by a pastoral or redundancy scheme, and the consent of the incumbent or priest in charge of the benefice in the area of which the building is situated shall not be required for any such use.

- (14) Section 38 shall apply to redundancy schemes in like manner as it applies to [F11pastoral church buildings schemes], with the omission of the reference to the agreement of the bishop or bishops concerned.

Textual Amendments

- F53** S. 51(1)(b)(i)(ii) inserted (1.4.1994) by 1994 No. 1, s. 4; Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F54** Words in s. 51(1)(b) substituted (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), ss. 46(a), 66(2) (with Sch. 6 paras. 1-5); 2007 No. 3, Instrument made by Archbishops
- F55** Words in s. 51(1)(d) added (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), Sch. 4 para. 15(a); 2005 No. 2, Instrument made by Archbishops
- F56** Words in s. 51(2)(c) inserted (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), ss. 46(b), 66(2) (with Sch. 6 paras. 1-5); 2007 No. 3, Instrument made by Archbishops
- F57** Words in s. 51(4)(a) inserted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), Sch. 4 para. 15(b); 2005 No. 2, Instrument made by Archbishops
- F58** Words in s. 51(4)(c) inserted (1.6.2005) by Church of England (Miscellaneous Provisions) Measure 2005 (No. 3), s. 11(2), Sch. 4 para. 15(b); 2005 No. 2, Instrument made by Archbishops
- F59** Words in s. 51(7) substituted (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), ss. 46(c), 66(2) (with Sch. 6 paras. 1-5); 2007 No. 3, Instrument made by Archbishops
- F60** Words in s. 51(9) substituted (1.9.1995) by 1995 No. 2, s. 11(c); Instrument dated 26.7.1995 made by Archbishops of Canterbury and York
- F61** Words in s. 51(9) inserted (11.6.2008) by Dioceses, Pastoral and Mission Measure 2007 (No. 1), ss. 46(d), 66(2) (with Sch. 6 paras. 1-5); 2007 No. 3, Instrument made by Archbishops

Marginal Citations

- M5** 1969 c. 38.
M6 1884 c. 72.

[F62]52 Application of remainder of proceeds of sales and other disposals

^{F63}[(1)] The Commissioners shall allocate the moneys comprised in the remaining one-third of the net proceeds and net premiums, or the balance thereof, mentioned in sections 46(1) and 51(5), in such proportions as they may determine between the Churches Conservation Trust, the redundant churches temporary maintenance account and the diocesan pastoral accounts of such dioceses as they may determine, subject in the case of any amounts allocated to the Churches Conservation Trust, to any order made under section 53(1).

[^{F64}(2) In exercising their duty to allocate moneys under subsection (1) the Commissioners may decide not to allocate moneys to any or all of the accounts mentioned in that subsection, in which case all the moneys not so allocated shall be paid to the Churches Conservation Trust.]]

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Textual Amendments

- F62** S. 52 substituted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), [Sch. 4 para. 16](#); 2005 No. 2, Instrument made by Archbishops
- F63** S. 52(1): s. 52 renumbered as s. 52(1) (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 5 para. 8](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F64** S. 52(2) added (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 5 para. 8](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops

53 Orders of Commissioners determining or varying payments to Redundant Churches Fund.

- (1) The Commissioners by order—
- (a) shall determine [the funding periods for the purposes of this Part and in respect of each funding] period [^{F65}the total amount (comprising grants made under section 44(10) and moneys allocated under section 52(1)) to be paid by the Commissioners to the Churches Conservation Trust”];
 - (b) may in respect of any [^{F66}funding] period vary the proportions of two-thirds and one-third specified in section 46(1) and section 51(5);
 - ^{F67}(c)
- (2) An order made under subsection (1) may specify conditions which must be satisfied before a payment is made by the Commissioners.
- (3) An order made under subsection (1)(b) shall apply to all transactions completed after the date on which the order comes into operation, except such transactions (if any) as may be specified in the order.
- ^{F68}(4)
- (5) An order under this section may be varied or revoked by a subsequent order made thereunder [^{F69}and the subsequent order may contain such transitional provisions as the Commissioners may consider necessary or expedient to give effect to the variation or revocation].
- (6) Every order made under this section shall be laid before the General Synod and shall not come into operation unless and until it has been approved by the General Synod.
- ^{F70}[(6A) Where the Standing Committee of the General Synod determines that an order made under this section does not need to be debated by the General Synod, then, unless notice is given by a member of the General Synod in accordance with its Standing Orders that he wishes the order to be -debated, the order shall for the purposes of subsection (6) be deemed to have been approved by the General Synod.]
- (7) The ^{M7}Statutory Instruments Act 1946 shall apply to any order approved by the General Synod under subsection (6) as if it were a statutory instrument and were made when so approved, and 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.

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Textual Amendments

- F65** Words in s. 53(1)(a) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 5 para. 9\(a\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F66** Words in s. 53(1)(b)(c) substituted (1.4.1994) by 1994 No. 1, [s. 6\(a\)\(ii\)](#); Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F67** S. 53(1)(c) repealed (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 5 para. 9\(b\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F68** S. 53(4) repealed (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 5 para. 9\(b\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F69** Words in s. 53(5) inserted (1.4.1994) by 1994 No. 1, [s. 6\(b\)](#); Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- F70** S. 53(6A) inserted (1.4.1994) by 1994 No. 1, [s. 6\(c\)](#); Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.

Modifications etc. (not altering text)

- C3** Words in s. 53(1)(a) substituted (1.4.1994) by 1994 No. 1, [s. 6\(a\)\(i\)](#); Instrument dated 25.3.1994 made by Archbishops of Canterbury and York.
- C4** S. 53(6A): Functions of Standing Committee transferred (1.1.1999) to Business Committee by S.I. 1998/1715, arts. 1(2)(4), 2, [Sch. 1](#); Instrument dated 14.10.1998 made by Archbishops of Canterbury and York.

Marginal Citations

- M7** 1946 c. 36.

54 Redundancy schemes in respect of churches closed or demolished otherwise than under this Measure.

- (1) Where the bishop of a diocese certifies that a church in his diocese or any part of such a church has not been used for divine service since 1 April 1964, and the incumbent (if any), the patron and the parochial church council of the parish in which the church is situated give their consent, the Commissioners may make an order declaring the church or part to be redundant and thereupon this Part shall apply as if the said declaration were a declaration of redundancy made by ^[F11]a pastoral church buildings scheme].
- (2) Where any church or part of a church has been demolished before the commencement of this Measure, or is subsequently demolished, otherwise than under this Part, a redundancy scheme providing for all or any of the matters mentioned in section 51(4) may, at any time after the commencement of this Measure or, as the case may be, after the demolition, be prepared ^[F71]and made] in accordance with subsections (2) to (6) of section 50 and ^[F71]subsection] (9) of section 50 shall apply thereto.
- (3) Where by virtue of subsection (2) a redundancy scheme provides for any of the matters mentioned in section 51(4)(a), section 51(5) shall apply in relation to the proceeds and net proceeds of any sale or exchange, and to the premiums and net premiums on any lease, of the site or part of the site of the church or part of the church to which the scheme applies as it applies where a redundancy scheme which provides for the demolition of a redundant building also provides for any of those matters ^[F72]: Provided that, where the Commissioners are satisfied that a new church or place of worship is to be provided in the area of the benefice in which a demolished church was situated, to

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take the place of the demolished church, the net proceeds and the net premiums shall be applied in accordance with section 46(1)(c)].

Textual Amendments

- F71** Words in s. 54(2) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 5 para. 10](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F72** Words in s. 54(3) inserted (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992 \(No. 1\)](#), s. 17(1), [Sch. 3 para.20](#); Instrument dated 27.5.1992 made by the Archbishops of Canterbury and York.

55 Schemes under Charities Act 1960 for redundant chapels belonging to charities.

- [^{F73}(1) The power of the court (as defined by the Charities Act 2011) to make schemes under its jurisdiction with respect to charities, and the power of the Charity Commission to make schemes under that Act, extend to the making of schemes with respect to consecrated chapels belonging to charities which are no longer needed for the purposes of the charity, and section 10(2)(c) of that Act shall not be taken as preventing the making of any such scheme.]
- (2) Where a scheme is made under this section, the bishop may, if he thinks it proper to do so, by order under his seal direct that section 61(1) and section 65 of this Measure, if applicable, shall apply to the chapel as they apply to the buildings mentioned in those sections, and those sections shall thereupon apply accordingly, and the scheme, so far as it relates to the chapel, shall not have effect unless and until such an order is made, or the bishop directs that the scheme may have effect without such an order.
- (3) A scheme made under this section may provide—
- for the demolition of the chapel and the disposal of the materials arising from the demolition;
 - for the sale or other disposal of the chapel or site thereof and the application of the proceeds;
 - for the appropriation of the chapel to such uses as may be specified or generally described in the scheme;
 - for matters supplementary or incidental to the matters aforesaid.
- (4) For the purposes of this section a consecrated chapel held on charitable trusts for the purpose of religious worship by the beneficiaries and staff of a charity and not by the general public shall be deemed to belong to that charity, notwithstanding that the trusts on which the chapel is held are separate from those of the charity, but save as aforesaid this section shall not apply to a chapel held on separate trusts relating to the use thereof for religious worship.
- (5) Section 54 of this Measure shall not apply to any consecrated chapel belonging to a charity.

Textual Amendments

- F73** S. 55(1) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 38](#) (with s. 20(2), [Sch. 8](#))

Status: Point in time view as at 14/03/2012.

Changes to legislation: There are currently no known outstanding effects for the Pastoral Measure 1983 (repealed), Part III. (See end of Document for details)

56 Churches not to be closed or disposed of otherwise than under this Measure.

- (1) It shall not be lawful to make any order or give any direction for closing a church on the ground that it is no longer required for use as a church, and the only procedure for closing a church on that ground shall be by way of a declaration of redundancy or the exercise of powers under section 55.
- (2) [^{F74}Subject to subsections (2A) and (2B),] it shall not be lawful to sell, lease or otherwise dispose of any church or part of a church or the site or part of the site of any church or any consecrated land belonging or annexed to a church except in pursuance of powers under this Part or section 30.
- [^{F75}(2A) Without prejudice to subsection (3)(a), on an application by the incumbent of the benefice comprising or including the parish in which the church is situated or, where the benefice is vacant, the bishop in the name and on behalf of the incumbent in the corporate capacity of the incumbent, the court may grant a faculty for a lease to be granted by the incumbent or, as the case may be, the bishop, of part of a church, provided that the court shall ensure that the premises remaining unlet, together with the premises let, under any lease or leases granted under this subsection, are, taken as a whole, used primarily as a place of worship.
- (2B) On an application by any person referred to in subsection (2A) the court may, whether or not it grants a faculty under that subsection, grant a faculty for the lease of any land belonging to or annexed to a church.
- (2C) The parochial church council for the parish in which the church or land is situated shall be a party to any lease granted under subsection (2A) or (2B) and, without prejudice to the rights and obligations of the lessor, shall have the same rights as the lessor to enforce any term of the lease which may be binding on the lessee, including any rights to forfeit the lease or to distrain on the property of the lessee.
- (2D) Subject to any directions of the court, any rent or other payment payable under any lease granted under subsection (2A) or (2B) shall be paid to the parochial church council.
- (2E) Subject to subsections (2D) and (2F), any such lease shall be for such period, and may contain such terms, as the court may determine and the lease or any terms contained therein may be varied at any time by the court on application by any party to the lease or otherwise as authorised by the court.
- (2F) Any such lease shall be deemed to contain the following terms—
- (a) in the case of a lease of part of a church granted under subsection (2A), the premises which are the subject of the lease shall not be used for purposes which are, or in a way which is, inconsistent with the use specified in that subsection, and
 - (b) in the case of a lease granted under subsection (2A) or (2B), no use shall be permitted for residential purposes except by a person who, as an employee of the lessor or otherwise, is required, as a condition of the employment or contract, to reside in the premises or part thereof,
- and the lease shall be deemed to contain a covenant on the part of the lessee to perform the said terms.
- (2G) Where any lease is granted under subsection (2A) or (2B) —
- (a) in the case of a lease of premises to trustees to be held on trust to be used for the purposes of a place of worship, the trustees shall not be entitled to exercise

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- the right conferred by the Places of Worship (Enfranchisement) Act 1920 (10 & 11 Geo. 5 c. 56) to enlarge the leasehold interest by acquiring the freehold;
- (b) in the case of a lease consisting of a tenancy of premises occupied or to be occupied wholly or partly for the purposes of a business, the tenancy shall not be subject to any provision of Part II of the Landlord and Tenant Act 1954 (2 & 3 Eliz. 2 c. 56) under which the lease is continued until determined, or under which the tenant is entitled to apply to the court for the grant of a new tenancy, in accordance with the provisions of that Part; and
- (c) in the case of a lease of land consisting of a tenancy which would, but for this subsection, be a farm business tenancy to which the Agricultural Tenancies Act 1995 (1995 c. 8) applied, that Act shall not apply to the tenancy and, accordingly, the tenant shall not be entitled to exercise any of the rights conferred by Part I, II or III of that Act.
- (2H) Without prejudice to section 84, where at any time, there is no parochial church council, the foregoing provisions of this section shall have effect and any lease granted under subsection (2A) or (2B) shall be construed as if, for any reference therein to the council, there were substituted a reference to the churchwardens.
- (2I) Where a lease has been granted under subsection (2A) or (2B) and, at any time, the benefice is vacant, the bishop in the name and on behalf of the incumbent in the incumbent's corporate capacity may exercise the power conferred on the lessor by subsection (2E) to apply to the court for a variation of the lease or any terms therein and the lease shall be construed as if any reference therein to the incumbent were a reference to the bishop acting in the name and on behalf of the incumbent as aforesaid.
- (2J) Any question relating to the interpretation or enforcement of any term of any lease granted under subsection (2A) or (2B) shall be determined by the court and section 11 of the [Faculty Jurisdiction Measure 1964 \(1964 No. 5\)](#) shall apply in relation to proceedings under subsection (2E) and this subsection as it applies to the proceedings mentioned in that section.
- (2K) Section 16(2), so far only as it applies to the archdeacon, (3) and (4) of the [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(1991 No. 1\)](#), shall apply to proceedings under subsections (2A), (2B), (2E) and (2J) as they apply to other proceedings for a faculty.
- (2L) In this section, except subsection (2G)(b), "the court" means the consistory court of the diocese in which the building is situated or, in the case of the diocese of Canterbury, the commissary court thereof and section 14 of the [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(1991 No. 1\)](#) shall not apply to the jurisdiction of the court conferred by the foregoing provisions of this section.]
- (3) The foregoing provisions of this section shall not—
- (a) prevent the grant of a faculty authorising a suitable use of part of a church or the grant of any faculty in respect of any such land as aforesaid; or
- (b) affect any powers under any Act of Parliament.
- [^{F76}(c) affect the power of the bishop of a diocese under section 22 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 to make an order directing that a building or land shall not be subject to the legal effects of consecration]
- (4) Where any church other than a church which has been declared redundant is purchased compulsorily or is purchased by agreement under an enactment conferring powers of

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compulsory purchase, then for the purposes of any enactment applying to the disposal of sums paid to the Commissioners in respect of the purchase of the church or any land annexed or belonging thereto, or in respect of compensation for damage to other ecclesiastical property arising in connection with the purchase, the provisions of this Part relating to the disposal of the proceeds of sale of a redundant building or any land annexed or belonging to a redundant church shall be deemed not to be applicable.

Textual Amendments

- F74** Words in s. 56(2) inserted (1.1.2007) by [Pastoral \(Amendment\) Measure 2006 \(No. 2\), ss. 1\(a\), 2\(2\); 2006 No. 3](#), Instrument made by Archbishops
- F75** S. 56(2A)-(2L) inserted (1.1.2007) by [Pastoral \(Amendment\) Measure 2006 \(No. 2\), ss. 1\(b\), 2\(2\); 2006 No. 3](#), Instrument made by Archbishops
- F76** S. 56(3)(c) added (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), s. 32(1), [sch. 7 para. 5](#) (with s. 31(6)); Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York

Amendment and revocation of redundancy schemes and redundancy provisions in [F11]pastoral church buildings schemes]

57 Amendment of redundancy schemes and provisions.

- (1) A redundancy scheme, and such provisions of [F11]a pastoral church buildings scheme] as are made by virtue of section 46 or section 47, may be amended by a subsequent redundancy scheme prepared, [F77]and made] in accordance with subsections (2) to (6) of section 50, and [F77]subsection (9)] shall apply thereto.
- (2) An amending redundancy scheme may revoke all or any provisions of the previous redundancy scheme or, as the case may be, any such provisions of [F11]a pastoral church buildings scheme], and may substitute or add other provisions providing for any of the matters mentioned in section 51, so far as applicable, and may contain such transitional provisions as appear to the Commissioners to be necessary or expedient in consequence of the changes made by the amending scheme.
- (3) Without prejudice to the provisions of subsection (2), the Commissioners may, with the agreement of the Secretary of State, make an amending redundancy scheme which provides—
 - (a) for empowering the Commissioners to sell, give or exchange any property vested in the Redundant Churches Fund, being a redundant building or any part thereof or any land annexed or belonging to the building or the church of which it forms part, for any use or uses which appear to the Commissioners to be suitable and which shall be specified or described in the scheme; and
 - (b) for empowering the diocesan board of finance to use or hold that property for such use or uses as aforesaid, or to let or license it for that use or those uses, or partly the one and partly the other;

and the scheme may for that purpose provide that immediately before the date on which the property vests in the Commissioners under section 59(2) or in the diocesan board of finance under section 59(3), as the circumstances require, it shall cease to be vested in the said Fund.

Before preparing a draft of a scheme which provides as aforesaid the Commissioners shall consult the said Fund.

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- (4) The proceeds of any sale or exchange made, and the premiums on any lease or licence granted, by virtue of subsection (3) shall be paid to the Commissioners, and out of those proceeds or premiums, as the case may be, the sum expended by the Redundant Churches Fund on the care and maintenance of the property to which the amending redundancy scheme relates, or so much thereof as the Commissioners may, with the agreement of the Secretary of State, determine, shall be repaid to the Fund by the Commissioners, and subject as aforesaid and to an appropriate order made under section 53(1)(b) ^{F78}..., the net proceeds or net premiums, as the case may be, shall be paid and applied in accordance with section 51(5).
- (5) Where any property to which the amending redundancy scheme relates is by virtue of subsection (3) let or licensed by the diocesan board of finance, the net rent from time to time paid thereunder shall be paid by the said board to the Redundant Churches Fund until the sum expended by the Fund on the care and maintenance of that property, or so much of that sum as the Commissioners may, with the agreement of the Secretary of State, determine, has been repaid to the Fund out of such rent.
- (6) A redundancy scheme or any provision thereof, and any such provision of [^{F11}a pastoral church buildings scheme], may be amended or revoked under this section before it comes into operation.

Textual Amendments

- F77** Words in s. 57(1) substituted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), [Sch. 4 para. 17](#); 2005 No. 2, Instrument made by Archbishops
- F78** Words in s. 57(4) omitted (11.6.2008) by virtue of [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 5 para. 11](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops

58 Restoration of redundant building to use as a church building.

[^{F11}a pastoral church buildings scheme] may provide that a redundant building or part of such a building which is vested in the Redundant Churches Fund or the diocesan board of finance or the Commissioners shall be restored to use as a church or part of a church, and may further provide:—

- (a) for designating the church as a parish church or chapel of ease;
- (b) for vesting the building or part, with or without any land vested as aforesaid with the building or part, in the incumbent of the benefice in the area of which it is situated, or in such other person as may be specified in the scheme;
- (c) for such transitional, supplementary or consequential matters as appear to the Commissioners to be necessary or expedient;
- (d) for revoking the declaration of redundancy and revoking or amending any provisions, whether in [^{F11}a pastoral church buildings scheme] or redundancy scheme, made under this Part in relation to the redundant building or part.

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Changes to legislation: There are currently no known outstanding effects for the Pastoral Measure 1983 (repealed), Part III. (See end of Document for details)

Vesting of property and other supplementary provisions

59 Vesting of property.

- (1) Where a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 46 applies provides for the demolition of the redundant building or any part thereof, the building or part thereof and any land which under the scheme is to be sold, given, exchanged or let with the site of the demolished building or part thereof shall by virtue of this Measure, without any conveyance or other assurance, vest in the appropriate body on the date when the relevant provisions of the scheme come into operation.

In this subsection “the appropriate body” means the body, being either the Commissioners or the diocesan board of finance, by which in accordance with the scheme the building or part thereof in question is to be demolished.

- (2) Where a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 46 or section 47 applies provides for empowering the Commissioners to sell, give or exchange the redundant building or any part thereof or any land annexed or belonging to the building or the church of which it forms part for a use or uses specified or described in the scheme, the building or part thereof or land shall vest in the Commissioners as aforesaid on the date when the relevant provisions of the scheme come into operation.

- [^{F79}(2A) Where a redundancy scheme or pastoral scheme to which section 46 or 47 applies provides for land annexed or belonging to a redundant building to be appropriated to use as the site for a parsonage house or part thereof or as parsonage land the land shall on the date when any such provision comes into operation vest in the incumbent of the benefice in which the land is situated as property of the benefice and without any conveyance or further assurance.]

- [^{F80}(2B) Where a redundancy scheme or pastoral scheme to which section 46 or 47 applies provides for land annexed or belonging to a redundant building or the whole or part of the site of a demolished building or land annexed or belonging thereto to be appropriated for any ecclesiastical purposes of the parish the land or site shall on the date when any such provision comes into operation vest in the diocesan board of finance without any conveyance or further assurance to be held on trust for the parochial church council for that parish to be used for the said purposes.]

- (3) Where a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 46 or section 47 applies provides for the use, holding, letting or licensing by the diocesan board of finance of the redundant building or any part thereof or any land annexed or belonging to the building or the church of which it forms part for a use or uses specified or described in the scheme, and the building or part thereof or land is not, on the date when the relevant provisions of the scheme come into operation, vested in the said board, it shall by virtue of this Measure, without any conveyance or other assurance, vest in the said board on the said date.
- (4) Where a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which either section 46 or section 47 applies provides for appropriating any land to use as part of a churchyard or burial ground, the land shall, on the date when the relevant provisions of the scheme come into operation, vest by virtue of this Measure, without any conveyance or other assurance, in the person in whom the churchyard or burial ground is vested.

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- (5) Where a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 47 applies provides for the care and maintenance by the Redundant Churches Fund of a redundant building or any part thereof or any land annexed or belonging to the building or the church of which it forms part, the building or part thereof or land shall by virtue of this Measure, without any conveyance or other assurance, vest in the said Fund.
- (6) Where a redundancy scheme provides for transferring to the diocesan board of finance responsibility for the care and maintenance of any land annexed or belonging to a redundant building or the church of which it forms part, the land shall by virtue of this Measure, without any conveyance or other assurance, vest in the said board.
- (7) Any property vesting under this section or under section 49(1) shall vest free of any trust or burial rights:
- Provided that any person entitled to burial rights may claim compensation in respect of the loss thereof, and any such claim in default of agreement shall be referred to and determined by the consistory court of the diocese, subject to an appeal to the Dean of the Arches and Auditor, and the amount of any compensation awarded shall be paid by the diocesan board of finance and the payment shall be treated as money expended on the property for the purpose of furthering the disposal or use thereof.
- (8) The body in whom any property vests as aforesaid shall be deemed to have an interest, for the purposes of faculty proceedings, in any other property so vested or any property formerly annexed or belonging to or held with property so vested.

Textual Amendments

- F79** S. 59(2A) inserted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005](#) (No. 3), s. 11(2), [Sch. 4 para. 18](#); 2005 No. 2, Instrument made by Archbishops
- F80** S. 59(2B) inserted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006](#) (No. 1), s. 16(2), [Sch. 4 para. 5](#); 2006 No. 2, Instrument made by Archbishops

60 Rights of way and other easements.

- (1) Where any land annexed or belonging to a church the whole or part of which is a redundant building does not vest by virtue of this Measure in the diocesan board of finance, the Commissioners or the Redundant Churches Fund, the redundancy scheme or (in a case to which section 46 or section 47 applies) the pastoral scheme may provide for conferring on any of the said bodies in whom the building or site of the building or any part of the building or site or any other land annexed or belonging to the church vests as aforesaid, such rights of way or other easements over or in the land not so vesting as appear to the Commissioners to be necessary—
- (a) to enable any property so vesting to be used for a use or uses specified or described in the redundancy scheme or pastoral scheme, or to facilitate such use;
- (b) to enable any property so vesting which is to be sold, given, exchanged or let by the Commissioners (otherwise than for such use as aforesaid), to be used for such purposes as appear to the Commissioners to be reasonable, or to facilitate such use; or

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- (c) to enable the Redundant Churches Fund to perform its function with respect to any property so vesting in the Fund, including the giving of reasonable access to members of the public.
- (2) Where rights of way over land adjoining or adjacent to a church to which or a part of which a declaration of redundancy relates were, before the declaration took effect, enjoyed by persons attending the church, and the church or part vests by virtue of this Measure in the Redundant Churches Fund or the diocesan board of finance, the said rights of way shall be enjoyed by the Fund or the board, as the case may be, so far as necessary for the performance of its functions and by members of the public for the purpose of visiting the church.
- [^{F81}(3) Where rights of way or other easements have been acquired by the Commissioners under section 60A and the land for the benefit of which the rights were acquired vests in the Churches Conservation Trust by virtue of this Measure those rights shall also vest in the Trust.]

Textual Amendments

F81 S. 60(3) added (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), [Sch. 4 para. 19](#); 2005 No. 2, Instrument made by Archbishops

[^{F82}60A Acquisition of rights of way and other easements

Where the Commissioners consider that it is necessary or appropriate to acquire any right of way or other easement for the benefit of land which has vested or is to vest in the Churches Conservation Trust by virtue of this Measure or is to be disposed of by them under this Measure they may acquire the right of way or easement in question.]

Textual Amendments

F82 S. 60A inserted (1.6.2005) by [Church of England \(Miscellaneous Provisions\) Measure 2005 \(No. 3\)](#), s. 11(2), [Sch. 4 para. 20](#); 2005 No. 2, Instrument made by Archbishops

61 Removal of legal effects of consecration of buildings and land.

- (1) Where any consecrated building or part of a building or land is vested in the Commissioners under section 59 or is appropriated to a use or uses specified or described in a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 46 or section 47 applies or is vested in the diocesan board of finance in pursuance of a redundancy scheme, then, unless the scheme otherwise provides,—
- the building or part of a building or land shall not be subject to the legal effects of consecration; and
 - in particular, the jurisdiction of any court or person with respect to the granting of faculties shall cease to extend to the building or part of a building or land.
- (2) Where any consecrated building or part of a building or land is vested in the Redundant Churches Fund under section 59, the said jurisdiction shall cease to extend thereto, and accordingly any works or alterations may be carried out in or in relation to the building or part of a building or land without the need for a faculty, but save as aforesaid [^{F83}and

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subject to any terms included in a lease under section 44(7A)] it shall continue to be subject to the legal effects of consecration.

- (3) ^{F84} . . . if any building or part of a building or land to which this section applies is subsequently restored to its former use or is appropriated to another use for which consecration would be required, this section shall cease to apply thereto.

Textual Amendments

- F83** Words in s. 61(2) inserted (1.4.1994) by [1994 No. 1, s. 7\(a\)](#); Instrument dated 25.3.1994 made by [Archbishops of Canterbury and York](#).
- F84** Words in s. 61(3) omitted (1.4.1994) by virtue of [1994 No. 1, s. 7\(b\)](#); Instrument dated 25.3.1994 made by [Archbishops of Canterbury and York](#)

62 Power to impose and enforce covenants.

- (1) Without prejudice to any restriction or requirement in a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 46 or section 47 applies, the Commissioners or the diocesan board of finance may, in exercising their powers under this Part to sell, give, exchange or let or, as the case may be, to let or license any building or land, include in the conveyance, lease or other instrument such covenants imposing conditions and requirements as to the use of the building or land concerned as the Commissioners or board think necessary or expedient to give effect to the provisions of the scheme or otherwise to secure the suitable use of the building or land; and, in a case where the land is sold, given or exchanged, any such covenants shall be enforceable as if the Commissioners or board were the owners of adjacent land and the covenants were expressed to be entered into for the benefit of that adjacent land, and in the case of covenants of a positive character as if they were negative.
- (2) Where any such covenant is subsequently varied or released by agreement, any sum of money received by a diocesan board of finance in consideration of the variation or release of a covenant imposed by the board shall be paid to the Commissioners and section 51(5) shall apply in relation to the sum so paid, and in relation to any sum of money received by the Commissioners in consideration of the variation or release of a covenant imposed by them, as it applies in relation to the proceeds of any sale or exchange under section 51(1), (3) or (4).
- [^{F85}(3) Section 84 (except subsection (2)) of the Law of Property Act 1925 (which enables the [^{F86}Upper Tribunal] to discharge or modify restrictions affecting land) shall not apply in relation to conditions and requirements imposed under subsection (1).]

Textual Amendments

- F85** S. 62(3) inserted (1.4.1994) by [1994 No. 1, s. 8](#); Instrument dated 25.3.1994 made by [Archbishops of Canterbury and York](#).
- F86** Words in s. 62(3) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 3 para. 1](#) (with Sch. 5)

63 Trusts for the repair etc. of redundant buildings and contents.

- (1) If and so long as a redundant building or part thereof—

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- (a) is vested in the diocesan board of finance pending the making or in pursuance of a redundancy scheme; or
- (b) is vested in the Redundant Churches Fund in pursuance of a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 47 applies; or
- (c) is vested in the Commissioners or the board for a use or uses specified or described in a pastoral church buildings scheme] or redundancy scheme;

any property of a charity the purposes of which include the repair and maintenance of the building or the provision or maintenance of ornaments or other contents of the building shall continue to be applicable for that purpose:

Provided that—

- (i) in the case mentioned in paragraph (c), it shall only be so applicable if the scheme so provides;
- (ii) if the redundant building consists of part of a church or only part of the redundant building is vested as aforesaid, it shall only be so applicable if and to the extent that the scheme so provides.

- (2) If and so long as any land annexed or belonging to a redundant building is vested in the diocesan board of finance in pursuance of a redundancy scheme or is vested in the Redundant Churches Fund in pursuance of a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 47 applies, then, if that land comprises a churchyard, any property of a charity the purposes of which include the maintenance of the churchyard shall continue to be applicable for that purpose;

Provided that if part only of the churchyard is so vested, the said property shall only be so applicable if and to the extent that the scheme so provides.

- (3) Nothing in subsections (1) and (2) shall affect the powers to make schemes in respect of any such charity under [^{F87}the Charities Act 2011], and paragraph 11(6) of Schedule 3 to this Measure shall apply to charities affected by a redundancy scheme as it applies to charities affected by [^{F11}a pastoral church buildings scheme] or order.
- (4) Where the purposes of a charity include the giving of sermons or lectures in any church and, by reason of a declaration of redundancy relating to the church or a part thereof, the sermons or lectures cannot be given in that church, they shall be given in the parish church of the parish in which the first-mentioned church is situated, or in such other church as the bishop may direct in an instrument under seal with the approval of [^{F88}the Charity Commission] .

Textual Amendments

F87 Words in s. 63(3) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 39](#) (with s. 20(2), [Sch. 8](#))

F88 Words in s. 63(4) substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 8 para. 70](#); [S.I. 2007/309](#), art. 2, [Sch.](#)

^{F11}64 Disposal of font, communion table and plate, and other contents.

- ^{F89}(1) Where a pastoral church buildings scheme or pastoral (church buildings disposal) scheme makes provision for a church or part of a church to be demolished or appropriated to any use specified or described in the scheme the bishop shall, unless

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the scheme makes other provision, give directions as to how the font, communion table and plate used for the purpose of Holy Communion shall be dealt with but, if the church or part thereof is so demolished or appropriated before any such directions are given or fully implemented, the diocesan board of finance shall, subject to any provision of the scheme, be responsible for the care, maintenance and safeguarding of any such items.]

- (2) In a case to which subsection (1) applies, the scheme may also make provision with respect to the disposal of any other contents of the church, not being tombstones, monuments or memorials commemorating deceased persons buried in the church or in any land belonging or annexed thereto.
- [^{F90}(2A) Where any items are disposed of in accordance with subsection (1) or (2) above the bishop shall, subject to any provision of the scheme, give directions as to how any proceeds of their sale are to be applied.]
- (3) Where a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 47 applies provides for the care and maintenance of a church or part of a church by the Redundant Churches Fund or where a redundancy scheme provides for a church or part of a church to remain vested in the diocesan board of finance, the scheme may also provide for the vesting in and the care and maintenance by the Fund or the board, as the case may be, of any of the contents of the church or provide for the disposal of any of the contents not being such tombstones, monuments or memorials as aforesaid.
- (4) No faculty shall be required for anything done in pursuance of this section.

Textual Amendments

- F89** S. 64(1) substituted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 5 para. 12\(a\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops
- F90** S. 64(2A) inserted (11.6.2008) by [Dioceses, Pastoral and Mission Measure 2007 \(No. 1\)](#), s. 66(2), [Sch. 5 para. 12\(b\)](#) (with [Sch. 6 paras. 1-5](#)); 2007 No. 3, Instrument made by Archbishops

65 Disposal of human remains.

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

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- worship by a Church other than the Church of England, so long as the whole of it continues to be so used without any structural alteration involving the disturbance of human remains or the removal of any tombstones, monuments or memorials commemorating deceased persons;
- (b) to any land which remains annexed or belonging to a redundant building used as aforesaid;
 - (c) to any land which is to be used as part of a churchyard or burial ground and is vested under section 59(4) in the person in whom the churchyard or burial ground is vested;
 - (d) to any land which is to be used as part of a burial ground and has been conveyed to a burial authority constituted by or under an enactment.
- (3) Where it appears to the Secretary of State that the demolition of a redundant building or part thereof, or the intended use or development of any property to which a redundancy scheme applies or any part of such property, will not involve the disturbance or human remains, he may, after consultation with the bishop and the Commonwealth War Graves Commission, by order provide for dispensing with the requirements (so far as they concern human remains) of subsection (1) and of Schedule 6 in relation to such demolition of the building or part thereof, or such use or development of the property or part thereof, as may be prescribed by or under the order, subject to such conditions, restrictions and requirements as may be so prescribed, and in relation to any sale, lease or other disposal of the property for the purpose of such use or development as aforesaid.
- (4) Any order made under the last foregoing subsection may be amended or revoked by a subsequent order made in like manner and subject to the like conditions, and, if at any time the requirements of subsection (1) and of Schedule 6 are complied with in respect of the property, the order shall cease to have effect.
- (5) Where an order is made under this section in respect of any property, a copy thereof, certified by or on behalf of the Secretary of State to be a true copy, shall be deposited with the registering authority (within the meaning of the ^{M8}Local Land Charges Act 1975), and the order shall be a local land charge.
- (6) Where, by virtue of any such order, human remains are not removed and reinterred or cremated, the requirements of subsection (1) and of Schedule 6, so far as they relate to the disposal of tombstones, monuments and memorials, shall none the less apply.
- (7) Where there is situated in any redundant building or part of a redundant building or any land to which a redundancy scheme applies any monument or memorial commemorating a deceased person whose remains are not buried in the building or part thereof or land, the body or person in whom the building or part thereof or land is vested or to whom it is leased or licensed shall not demolish, sell, lease or otherwise dispose of it or use it for any use or carry out any development thereof, unless the monument or memorial has been disposed of in such manner as the bishop after consultation with the diocesan advisory committee for the care of churches has directed, or the bishop has after such consultation dispensed with this requirement.
- (8) No faculty shall be required for anything done in pursuance of this section or Schedule 6.
- (9) In this section any reference to a redundancy scheme shall include a reference to the provisions of ^{F11}a pastoral church buildings scheme] providing for the matters referred to in section 30, section 46 or section 47.

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Modifications etc. (not altering text)

- C5** S. 65: power to apply conferred (1.3.1993) by [Care of Churches and Ecclesiastical Jurisdiction Measure 1991 \(No. 1, SIF 21:8\)](#), **s. 22(2)**, (with s. 31(6)); [Instrument dated 16.2.1993 made by the Archbishops of Canterbury and York](#).

Marginal Citations

- M8** 1975 c. 76.

Preservation of redundant churches by Secretary of State

66 Transfer of redundant churches to Secretary of State.

(1) Notwithstanding anything in this Part,—

- (a) where a redundant building or any part thereof is vested in the diocesan board of finance, whether in pursuance of [^{F11}a pastoral church buildings scheme] or a redundancy scheme or pending the making of a redundancy scheme, the board may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with the Secretary of State for the acquisition and preservation by the Secretary of State, whether in pursuance of existing statutory provisions or further provisions enacted after the passing of this Measure, of the building or part with or without other land so vested in the board;
- (b) where a redundant building or any part thereof is vested in the Redundant Churches Fund in pursuance of a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 47 applies the Fund may enter into and carry out such an agreement as aforesaid for the acquisition and preservation by the Secretary of State of the building or part with or without other land so vested;
- [^{F91}(c) where a redundant building or any part thereof is situated in England and is vested in the diocesan board of finance, whether in pursuance of [^{F11}a pastoral church buildings scheme] or a redundancy scheme or pending the making of a redundancy scheme, the board may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with the Historic Buildings and Monuments Commission for England for the acquisition and preservation by the Commission of the building or part with or without other land so situated and so vested in the board;
- (d) where a redundant building or any part thereof is situated in England and is vested in the Redundant Churches Fund in pursuance of a redundancy scheme or [^{F11}a pastoral church buildings scheme] to which section 47 applies, the Fund may enter into and carry out an agreement with the Historic Buildings and Monuments Commission for England for the acquisition and preservation by the Commission of the building or part with or without other land so situated and so vested;]

and on such acquisition this Part, except so far as it is applied by [^{F92}subsection (2) and (3)], and any redundancy scheme made with respect to the redundant building, or any provision of [^{F11}a pastoral church buildings scheme] so made by virtue of section 46 or section 47, shall cease to apply to the property acquired.

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- [^{F93}(1A) The Historic Buildings and Monuments Commission for England shall not enter into an agreement under subsection (1)(c) or (d) without the consent of the Secretary of State.]
- (2) Where a redundant building or part thereof is acquired as aforesaid,—
- (a) any rights of way or other easements conferred under section 60(1) and any rights of way enjoyed under section 60(2) shall vest in the Secretary of State [^{F94}or (as the case may be) the Historic Buildings and Monuments Commission for England]or be enjoyed by him [^{F94}or them]for the performance of his [^{F94}or their]functions in relation to the property or for giving reasonable access to the public;
 - (b) sections 59(7), 61(2), 63(1) and 63(2) shall apply as they apply to buildings or parts of buildings and land vested in the Redundant Churches Fund;
 - (c) section 65(1) shall not apply to the disposal to the Secretary of State [^{F95}or (as the case may be) the Historic Buildings and Monuments Commission for England].
- (3) [^{F11}A pastoral church buildings scheme] may make provision under section 58, with the consent of the Secretary of State [^{F96}or (as the case may be) the Historic Buildings and Monuments Commission for England], for restoring to use as a church or part of a church any redundant building or part thereof acquired by the Secretary of State [^{F96}or the Commission]under this section, and for any of the other matters specified in section 58, and that section shall accordingly apply to any such building or part and to any land acquired by the Secretary of State [^{F96}or the Commission]therewith in like manner as it applies to a redundant building vested in the Redundant Churches Fund and land so vested therewith.
- [^{F97}(3A) Before giving his consent under subsection (3) in relation to a building or part situated in England, the Secretary of State shall consult with the Historic Buildings and Monuments Commission for England.]
- (4) Where a redundant building or any part thereof is acquired by the Secretary of State [^{F98}or the Historic Buildings and Monuments Commission for England]under this section, or an agreement for such acquisition has been made, and any land previously annexed or belonging to the building is vested in the incumbent of the benefice in the area in which the building is situated, the incumbent may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with the Secretary of State [^{F98}or the Commission (as the case may be)]for the acquisition of the land by the Secretary of State [^{F98}or the Commission (as the case may be)]and for its maintenance with the building or part and subsection (2) shall apply in relation to any land so acquired as it applies in relation to a redundant building or part thereof acquired in pursuance of subsection (1).
- [^{F99}(4A) The Historic Buildings and Monuments Commission for England shall not enter into an agreement under subsection (4) unless—
- (a) the land is situated in England, and
 - (b) the Secretary of State has consented.]
- (5) An agreement under this section may provide for the acquisition and preservation by the Secretary of State [^{F100}or (as the case may be) the Historic Buildings and Monuments Commission for England]of any of the contents of the redundant building or part thereof, and on such acquisition section 63(1) shall apply to the said contents as they apply to the contents of a building or part thereof vested in the Redundant

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Churches Fund, but save as aforesaid this Part and any redundancy or [^{F11}pastoral church buildings scheme] relating to the contents shall cease to apply to the contents so acquired.

- [^{F101}(6) Where a redundant building (or part) situated in England has been acquired for its preservation by the Secretary of State under subsection (1) either with or without any other land so situated, the Historic Buildings and Monuments Commission for England may by agreement with the Secretary of State undertake on his behalf the management and preservation of the building (or part) together with the other land (if any).
- (7) Where the Secretary of State has under subsection (4) acquired land situated in England for its maintenance with a building (or part), the Commission may undertake, in any agreement made under subsection (6) in relation to the building (or part), the maintenance of the land on behalf of the Secretary of State.
- (8) Where the Secretary of State has under subsection (5) acquired for their preservation the contents of a redundant building (or part), the Commission may undertake, in any agreement made under subsection (6) in relation to the building (or part), the preservation of the contents on behalf of the Secretary of State.]]

Textual Amendments

- F91** S. 66(1)(c)(d) inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(2\)](#)
- F92** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(2\)](#)
- F93** S. 66(1A) inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(3\)](#)
- F94** Words inserted by the [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(4\)](#)
- F95** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(4\)](#)
- F96** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(5\)](#)
- F97** S. 66(3A) inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(b\)](#)
- F98** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(7\)](#)
- F99** S. 66(4A) inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(8\)](#)
- F100** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(9\)](#)
- F101** S. 66(6)–(8) inserted by [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), s. 33, [Sch. 4 para. 70\(1\)\(10\)](#)

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Changes to legislation:

There are currently no known outstanding effects for the Pastoral Measure 1983 (repealed), Part III.