



# Mission and Pastoral Measure 2011

2011 No. 3

## PART 4 **E**

### PROCEDURE FOR MAKING PASTORAL CHURCH BUILDINGS SCHEMES

#### *Procedure for schemes*

#### 20 Introduction **E**

This Part contains provisions relating to the procedure for making pastoral church buildings schemes, that is to say schemes containing a declaration of closure for regular public worship.

#### Commencement Information

II S. 20 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

#### 21 Formulation and submission to bishop of draft proposals **E**

- (1) Before deciding to make any recommendations to the bishop, the mission and pastoral committee shall so far as may be practicable ascertain the views of the interested parties or invite them to express their views<sup>[F1]</sup>—
  - (a) on the recommendations the committee proposes to make, or
  - (b) if the committee has yet to formulate recommendations, on the issues which the committee considers need to be addressed.]
- (2) In this Part “interested parties”, in relation to any recommendations, <sup>[F2]</sup>plans,] proposals or draft scheme, means—
  - (a) incumbents of any benefices which would be affected by the implementation thereof, including vicars in a team ministry established for the area of any such benefice;
  - (b) the patrons of any such benefices;

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- (c) the parochial church councils of any parishes which would be so affected;
- (d) the priests in charge of any conventional districts wholly or partly within the area of any benefices which would be so affected and the parochial church councils of such districts;
- (e) the archdeacons and rural deans of any archdeaconries and deaneries which would be so affected or to which any such benefices or parishes belong and the lay chairmen of the deanery synods of any such deaneries;
- (f) the local planning authority or authorities concerned; and
- (g) the parish council of the parish in which the building to which a declaration of closure for regular public worship relates is situated or, if there is no parish council for that parish, the chairman of the parish meeting.

For the purposes of this subsection a change in the patronage of a benefice shall be deemed to affect that benefice and the parish or parishes of the benefice.

- (3) Where any recommendations, [<sup>F3</sup>plans,] proposals or draft scheme relate or relates to any person holding office under Common Tenure whose office would or might be abolished if they or it took effect <sup>F4</sup>..., that person shall be deemed to be an interested party for the purposes of this Part.
- (4) In the case of interested parties, being incumbents or vicars in a team ministry or a person referred to in subsection (3), the mission and pastoral committee shall, before reaching its decision, afford to each such person, if he or she so desires, an opportunity of meeting the committee or sub-committee or representative thereof, but, in the case of a recommendation for a union of benefices or otherwise for the dissolution of any benefice or the holding in plurality of any benefice or benefices, or the establishment of a team or group ministry for any benefice or benefices, or the abolition of any office of vicar in a team ministry, the incumbent of the benefice or each of the benefices or the holder of the office of vicar shall have an opportunity of meeting the committee (as distinct from a sub-committee or representative of the committee), if he or she so desires.
- (5) In the case of interested parties, being parochial church councils, the committee shall, before reaching its decision, afford to each council or their representative, if the council so requests, an opportunity of meeting the committee or, if the committee so decides, a sub-committee of the committee or, with the consent of the council, a representative of the committee.
- (6) Before deciding to make a recommendation that a declaration of closure for regular public worship be made in respect of any church the committee shall—
  - (a) [<sup>F5</sup>so far as may be practicable] ascertain the views of any local planning authority or authorities concerned;
  - (b) notify the Church Buildings Council of the church or churches in respect of which the committee might decide to make such a recommendation and obtain from them a copy of the report which the Council is required to prepare under subsection (7).
- (7) As soon as practicable after receiving a notice under subsection (6) the Council shall prepare a report about—
  - (a) the historic interest and architectural quality of each church mentioned in the notice and of other churches in the area;
  - (b) the historic interest and aesthetic qualities of the contents of that and those churches;

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- (c) any special features of any churchyard or burial ground annexed to any of them;
- (d) any information or advice which the Council thinks appropriate to give concerning possible architectural or structural changes in each church mentioned in the notice in the event of its closure for regular public worship or, in the event that the church is not so closed, concerning any such changes which would facilitate its use for purposes which are consistent with use for regular public worship;

and shall send a copy of that report to the Commissioners, the diocesan board of finance and the committee.

- (8) When the committee has decided to make recommendations, it shall formulate them in draft proposals and submit them to the bishop, and the bishop may, with the agreement of the committee, make such amendments to the draft proposals as appear to him desirable.
- (9) The committee shall annex to the draft proposals formulated by it a statement of the views of the interested parties and a copy of the report prepared by the Council under subsection (7).

[<sup>F6</sup>(9A) The duties under subsections (1), (4) and (5) do not apply in relation to a plan for pastoral organisation which has been approved by the deanery synod of each deanery which would be affected by implementation of the plan if—

- (a) the plan has also been approved by the mission and pastoral committee,
- (b) the draft proposals submitted under subsection (8) are to the same effect, or substantially the same effect, as proposals included in the plan as so approved,
- (c) the interested parties have been consulted on the plan, and
- (d) any person holding office under Common Tenure whose office would or might be abolished if the plan took effect has had an opportunity to meet the mission and pastoral committee.

(9B) The duty under subsection (9) does not apply in the case of draft proposals which relate to a plan of the kind referred to in subsection (9A).]

(10) In this section “incumbent”, in relation to a benefice in respect of which a suspension period has been declared and is for the time being in force, means the priest in charge thereof.

[<sup>F7</sup>(11) The reference in subsection (1) to the interested parties includes a reference to any other person who the mission and pastoral committee considers might be affected by the matters in question; and the references in subsections (4), (5), (9) and (9A) to the interested parties are accordingly to be read as including a reference to those other persons.]

#### Textual Amendments

- F1** S. 21(1)(a)(b) inserted (1.10.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), [ss. 1\(6\)](#), 14(3); S.I. 2018/722, art. 3(a)
- F2** Word in s. 21(2) inserted (1.10.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), [ss. 1\(7\)](#), 14(3); S.I. 2018/722, art. 3(a)
- F3** Word in s. 21(3) inserted (1.10.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), [ss. 1\(7\)](#), 14(3); S.I. 2018/722, art. 3(a)

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- F4** Words repealed (6.8.2014) by Church of England (Miscellaneous Provisions) Measure 2014 (No. 1), s. 21(2), **Sch. 2 para. 19(4)**; S.I. 2014/2077, art. 2(1) (with Sch. para. 6(1))
- F5** Words in s. 21(6)(a) inserted (1.10.2018) by Mission and Pastoral etc. (Amendment) Measure 2018 (No. 4), **ss. 1(8)**, 14(3); S.I. 2018/722, art. 3(a)
- F6** S. 21(9A)(9B) inserted (1.10.2018) by Mission and Pastoral etc. (Amendment) Measure 2018 (No. 4), **ss. 1(9)**, 14(3); S.I. 2018/722, art. 3(a)
- F7** S. 21(11) inserted (1.10.2018) by Mission and Pastoral etc. (Amendment) Measure 2018 (No. 4), **ss. 1(10)**, 14(3); S.I. 2018/722, art. 3(a)

**Commencement Information**

- I2** S. 21 in force at 1.7.2012 by S.I. 2012/1, **art. 2**

**22 Approval by bishop of draft proposals** **E**

- (1) If the bishop approves either with or without amendments draft proposals submitted to him under section 21(8) he shall submit the proposals as approved to the Commissioners and inform the mission and pastoral committee that he has done so.
- (2) The mission and pastoral committee shall send a copy of the proposals as approved by the bishop to every interested party with a notice informing him or her that if the Commissioners prepare a draft scheme to give effect to the proposals he or she will be given an opportunity of making representations with respect thereto.

**Commencement Information**

- I3** S. 22 in force at 1.7.2012 by S.I. 2012/1, **art. 2**

**23 Amendment of proposals and preparation of draft scheme** **E**

- (1) The Commissioners shall consider any proposals submitted to them under section 22(1) and the bishop, in consultation with the mission and pastoral committee, shall consider any comments made by the Commissioners with respect to any of the proposals.
- (2) If the proposals provide, in the circumstances mentioned in section 58 or 59—
  - (a) for the demolition of the church to which the declaration relates, or
  - (b) for the church being put to a use involving architectural or structural changes to the church, or
  - (c) for the care and maintenance of the church by the Churches Conservation Trust,
 the Commissioners shall consult the Church Buildings Council through its Statutory Advisory Committee.
- (3) After the provisions of subsections (1) and (2) have been complied with the Commissioners may make, with the agreement of the bishop given after consultation with the mission and pastoral committee, such amendments to the proposals as appear to them desirable.
- (4) The Commissioners shall prepare a draft scheme to give effect to the proposals, with any amendments made under subsection (3): Provided that—

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- (i) the Commissioners may, with the agreement of the bishop, given after consultation with the mission and pastoral committee, decide to proceed with some but not all of the proposals, and in that case this subsection shall apply as if they were the only proposals;
- (ii) if, as a result of the Commissioners' decision under proviso (i), the proposals no longer contain a declaration of closure for regular public worship, the Commissioners shall refer the proposals to the mission and pastoral committee and the committee shall proceed as if the proposals related to a draft pastoral scheme which does not contain such a declaration or a draft order, as the case may be.

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#### Commencement Information

**I4** S. 23 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

## 24 Notice and publication of draft schemes **E**

- (1) The Commissioners shall serve a copy of any draft scheme prepared under section 23 on each of the interested parties together with a notice stating that written representations with respect thereto 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 service of the notice.
- (2) The Commissioners shall—
  - (a) also serve a copy thereof on the Church Buildings Council, English Heritage and the Joint Committee of the National Amenity Societies and on the Commonwealth War Graves Commission and, if the draft scheme provides for the care and maintenance of the building proposed to be closed for regular public worship by the Churches Conservation Trust, that Trust;
  - <sup>F8</sup>(aa) publish the draft scheme or notice online together with a notice stating the objects of the draft scheme and that written representations 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 such publication;] and
  - (b) publish in one or more newspapers circulating in the locality affected by the scheme a notice stating the objects of the draft scheme<sup>F9</sup>, specifying the address online at which the notice is published under paragraph (aa)] and naming a place or places within the locality 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 <sup>F10</sup>the date specified for the purposes of paragraph (aa)].
- (3) The Commissioners shall, in the case of every draft scheme, send copies of such a notice as is mentioned in subsection (2), but specifying a date not less than twenty-eight days after the sending of the notice, to the secretary of the parochial church council of every parish affected by the draft scheme, and require him or her <sup>F11</sup>—
  - (a)] to affix a copy on or near the principal door of every church in the parish and every building licensed by the bishop for public worship in the parish (including any building referred to in section 80(13) or (14))<sup>F12</sup>,
  - <sup>F13</sup>(b) to make such arrangements as are practicable, in the case of each of those churches or buildings at which one or more services are to be held in the period in which representations may be made in accordance with the notice,

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for announcements to be made at the service or, if there is more than one held there in that period, at as many of them as is practicable with a view to ensuring that as many of those who habitually attend public worship there as is practicable are aware of the contents of the notice.]]

[<sup>F14</sup>(3A) A reference in subsection [<sup>F15</sup>(3)(b)] to a service held at a church or building does not include a reference to any of the services known as occasional offices.]

- (4) The Commissioners shall consider any written representations duly made with respect to any draft scheme and 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.
- (5) The Commissioners may, before or after the end of 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.

#### Textual Amendments

- F8** S. 24(2)(aa) inserted (1.10.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\), ss. 3\(8\)\(a\), 14\(3\)](#); S.I. 2018/722, art. 3(c) (with Sch. para. 1)
- F9** Words in s. 24(2)(b) inserted (1.10.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\), ss. 3\(8\)\(b\), 14\(3\)](#); S.I. 2018/722, art. 3(c) (with Sch. para. 1)
- F10** Words in s. 24(2)(b) substituted (1.10.2018) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\), ss. 3\(8\)\(c\), 14\(3\)](#); S.I. 2018/722, art. 3(c) (with Sch. para. 1)
- F11** Words in s. 24(3) inserted (1.3.2019) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\), ss. 3\(9\)\(a\), 14\(3\)](#); S.I. 2019/66, art. 2(a)
- F12** S. 24(3)(b)(c) inserted (1.3.2019) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\), ss. 3\(9\)\(b\), 14\(3\)](#); S.I. 2019/66, art. 2(a)
- F13** S. 24(3)(b) substituted for s. 24(3)(b)(c) (1.3.2019 immediately after the provisions of Church Measure 2018 No. 4 commenced by S.I. 2019/66, art. 2 come into force) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\), ss. 15\(1\), 17\(3\)](#); S.I. 2019/67, art. 2(1)(n)(2)
- F14** S. 24(3A) inserted (1.3.2019) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\), ss. 3\(10\), 14\(3\)](#); S.I. 2019/66, art. 2(a)
- F15** Word in s. 24(3A) substituted (16.3.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\), ss. 15\(1\), 16\(2\)](#)

#### Commencement Information

- I5** S. 24 in force at 1.7.2012 by [S.I. 2012/1, art. 2](#)

## 25 Amendment of draft schemes **E**

- (1) The Commissioners—
  - (a) at the request of the bishop made after consultation with the mission and pastoral committee, or
  - (b) as a result of any representations,
 may amend any draft scheme prepared by them under this Part, but any amendments made as a result of any representations shall only be made with the agreement of the bishop given after consultation with the committee.
- (2) If any such amendments, other than any amendments which, in the opinion of the Commissioners, are such as are described in section 30(1), are made, the amended

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draft scheme shall be treated in the same manner as an original draft scheme, and section 24 shall apply accordingly.

- [<sup>F16</sup>(3) The power under subsection (1) to amend a draft scheme includes power to amend it so that it would give effect instead to proposals included in representations made to the Commissioners on the draft; and where the Commissioners make amendments of that kind—
- (a) subsection (2) does not apply, and
  - (b) the Commissioners shall instead carry out such consultation on the amended draft scheme as they think appropriate.]

#### Textual Amendments

**F16** S. 25(3) inserted (1.10.2018) by *Mission and Pastoral etc. (Amendment) Measure 2018 (No. 4)*, ss. 3(11), 14(3); S.I. 2018/722, art. 3(c)

#### Commencement Information

**I6** S. 25 in force at 1.7.2012 by S.I. 2012/1, art. 2

## 26 Making of schemes **E**

- (1) Where no representations with respect to any such draft scheme have been duly made and the Commissioners are of the opinion that any such draft scheme should be made, and do not propose to amend or further amend it under section 25, they shall submit it to the bishop for his consent and, when he has given his consent, they shall seal a copy of the draft scheme and so make the scheme.
  - (2) Where representations with respect to any such draft scheme have been duly made and the Commissioners, having considered those representations, are of opinion that the draft scheme should be made, and do not propose to amend or further amend it under section 25, they shall so far as practicable—
    - (a) serve on the persons who duly made written representations with respect to the draft scheme notice of the Commissioners' decision with respect to the representations together with a statement in writing of the reasons therefor; and
    - (b) serve on any other persons, being interested parties, a copy of the notice.
  - (3) A notice under subsection (2) shall inform persons who have duly made written representations with respect to the draft scheme of their rights, on obtaining the leave of the Judicial Committee of the Privy Council, to appeal to Her Majesty in Council and shall specify the date, being a date not less than twenty-eight days after the service of the notice, on or before which notice of intention to apply for such leave must be given.
  - (4) When serving a notice under subsection (2) the Commissioners shall send a copy to the Registrar of the Privy Council together with a copy of the draft scheme and a copy of the statement in writing referred to in that subsection.
- [<sup>F17</sup>(5) In the case of a draft scheme which gives effect to proposals included in a deanery plan to which this section applies, the Commissioners, having considered any representations made with respect to the draft scheme [<sup>F18</sup>and unless they consider that there are material considerations which indicate that it should not be made, shall

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comply with the duties imposed by subsection (2)(a) and (b); and references in this Measure to a notice under subsection (2) shall be read accordingly.]

- (6) Subsections (1) to (4) have effect subject to subsection (5).
- (7) In this section, “deanery plan” means a plan for pastoral reorganisation which has been approved by the deanery synod of each deanery which would be affected by implementation of the plan [<sup>F19</sup>and by the mission and pastoral committee]; and a deanery plan is one to which this section applies if—
- (a) the persons who are the interested parties for the purposes of section 21(9A) have been consulted on the plan,
  - (b) any person holding office under Common Tenure, and any incumbent or archdeacon not subject to Common Tenure, whose office would or might be abolished if the plan took effect has had an opportunity to meet the mission and pastoral committee, and
  - (c) the proposals to which the draft scheme gives effect are to the same effect, or substantially the same effect, as proposals included in the plan.]

#### Textual Amendments

- F17** S. 26(5)-(7) inserted (1.10.2018 for specified purposes, 1.3.2019 in so far as not already in force) by [Mission and Pastoral etc. \(Amendment\) Measure 2018 \(No. 4\)](#), **ss. 4(4)**, 14(3); S.I. 2018/722, art. 3(d); S.I. 2019/66, art. 2(b)
- F18** Words in s. 26(5) substituted (1.3.2019 immediately after the provisions of Church Measure 2018 No. 4 commenced by S.I. 2019/66, art. 2 come into force) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\)](#), **ss. 15(2)**, 17(3); S.I. 2019/67, art. 2(1)(n)(2)
- F19** Words in s. 26(7) inserted (1.3.2019) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\)](#), **ss. 15(3)**, 17(3); S.I. 2019/67, art. 2(1)(n)

#### Commencement Information

- I7** S. 26 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

## 27 Transmission of copies of scheme **E**

- (1) The Commissioners shall send a copy of every scheme made by them under this Part to the interested parties and to the Church Buildings Council.
- (2) The Commissioners shall also send a copy of every such scheme to the registrar of the diocese concerned, who shall file it in the diocesan registry.

#### Commencement Information

- I8** S. 27 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

## 28 Application of provisions of Part 3 to pastoral church buildings schemes **E**

Sections 12, 14, 15 and 16 shall apply in relation to pastoral church buildings schemes as they apply to pastoral schemes which are not pastoral church buildings schemes]<sup>F20</sup>; and for that purpose, a reference in section 12 or Schedule 2 to a notice under section 11(2) includes a reference to a notice under section 26(2).]



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**Textual Amendments**

**F20** Words in s. 28 inserted (1.3.2019) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\)](#), [ss. 15\(4\)](#), [17\(3\)](#); [S.I. 2019/67](#), [art. 2\(1\)\(n\)](#)

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**Commencement Information**

**I9** S. 28 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**29** **Withdrawal of scheme at request of bishop** **E**

If the bishop of the diocese concerned or, in a case to which section 15 or 16 applies, the bishops of the dioceses concerned requests or request the Commissioners not to proceed with any proposals, or to withdraw a draft scheme, the Commissioners shall comply with the request, but without prejudice to the making of fresh proposals: Provided that such a request shall only be made after consultation with the mission and pastoral committee or committees or (in a case to which section 16 applies) the joint boundary committee of the dioceses concerned.

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**Commencement Information**

**I10** S. 29 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**30** **Supplementary powers of Commissioners and mission and pastoral committees** **E**

- (1) At any time between the submission of proposals to the Commissioners under this Part and the making of a scheme by them, the Commissioners may, without reference to any other person, make such amendments to the proposals or to any draft scheme prepared to give effect thereto as may seem to them necessary for the purpose of correcting any drafting mistake or omission.
- (2) Nothing in this Part shall be construed as limiting in any way the powers of a mission and pastoral committee or a joint boundary committee or the Commissioners to consider any representations made to them by any person and to hold such consultations and interviews and make such inquiries as they think fit.

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**Commencement Information**

**I11** S. 30 in force at 1.7.2012 by [S.I. 2012/1](#), [art. 2](#)

**Changes to legislation:**

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