
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under the Planning (Listed Building and Conservation Areas) Act 1990 (“the Act”) and revokes the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994 (SI 1994/1771) in respect of buildings situated in England.

Section 60(1) and (2) of the Act provides that ecclesiastical buildings which are for the time being used for ecclesiastical purposes are not subject to sections 3, 4, 7 to 9, 47, 54, 59 and 74 of the Act. These relate to listed building control, including building preservation notices, restrictions on works of demolition, alteration or extension, compulsory acquisition of buildings in need of repair, urgent preservation works and offences in relation to intentional damage. Section 75 of the Act provides that ecclesiastical buildings which are for the time being used for ecclesiastical purposes are not subject to section 74 of the Act which relates to the control of demolition of building in a conservation area. These exemptions are commonly collectively referred to as the ecclesiastical exemption. These provisions are subject to section 60(3) of the Act, which provides that the ecclesiastical exemption does not apply to a building which is used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office.

Section 60(5) of the Act enables the Secretary of State to make an order restricting or excluding the ecclesiastical exemption.

Article 4 excludes the ecclesiastical exemption in respect of all buildings other than those falling within articles 5, 6, 7 or 8.

Article 5 retains the exemption for church buildings within the faculty jurisdiction of the Church of England.

Article 6 retains the exemption for buildings subject to the Care of Cathedrals Measure (“the Measure”) subject to the extent provisions set out in that article. The exemption is retained for (i) ecclesiastical buildings which are for the time being used for ecclesiastical purposes which are situated within the red line; (ii) church buildings situated outside the red line and (iii) monuments situated outside the red line and in a place used for burial purposes. The areas within the red line on the plans, referred to in article 6(2), are all within the precinct of an English Cathedral church, which was designated by the Assistant Secretary in the Department of National Heritage on 21st June 1994 after consultation with the Cathedrals Fabric Commission for England. The relevant plan may be inspected during normal office hours at the offices of the local planning authority for the Cathedral church in question. A complete set of plans may also be inspected at the Department for Culture, Media and Sport 2-4 Cockspur Street, London, SW1Y 5DH and the Cathedrals Fabric Commission for England, Cathedral and Church Buildings Division, Church House, Great Smith Street, London, SW1P 3AZ.

Article 7 retains the exemption for church buildings of the Roman Catholic Church, the Methodist Church, the Baptist Union of Great Britain and the United Reformed Church, subject to the restrictions set out in that article.

Article 8 provides that additional categories of ecclesiastical buildings which do not fall within articles 5, 6 or 7 also retain ecclesiastical exemption.

The meaning of “building” in the Order has the same meaning as “building” in section 91(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which is incorporated from the Town and Country Planning Act 1990 (c.8); and a “church building” is defined in article 3(1) of this Order as a building whose primary use is a place of worship. For the purposes of this Order a reference to

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a “building” or a “church building” includes a reference to (a) any object or structure fixed to that building, and (b) any object or structure within the curtilage of that building which, although not fixed to that building, forms part of the land.