



# Pastoral Measure 1983 (repealed)

1983 No. 1

## PART I

### PROCEDURE FOR MAKING PASTORAL SCHEMES AND ORDERS

#### *Pastoral committees*

#### **1 Constitution and procedure of pastoral committees.**

- (1) For every diocese there shall be a pastoral committee having such rights, powers, duties and obligations as are vested in the committee by this Measure.
- (2) The constitution and rules of procedure of the pastoral committee of a diocese shall be those set out in Schedule 1.
- (3) The pastoral committee of a diocese shall present annually to the diocesan synod a report of its activities during the preceding year.

#### **2 Duties of pastoral committees.**

- (1) It shall be the duty of the pastoral committee of a diocese from time to time as may be directed by the bishop or as the committee consider necessary to review the arrangements for pastoral supervision in the diocese or any part thereof, (including sharing agreements in respect of a church or parsonage house and any proposals for sharing agreements) and, in cases where they consider it desirable, to make recommendations to the bishop in accordance with section 3 for any of the matters for which provision may be made under this Measure (other than section 36) by a pastoral scheme or pastoral order.
- (2) Where the pastoral committee decided on their own initiative to review the arrangements for pastoral supervision in the diocese or a part thereof, they shall consult the bishop and give him particulars of the matters which they intend to consider and of the benefices which will be affected.
- (3) The pastoral committee shall at all times—

*Status: Point in time view as at 01/01/2001.*

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- (a) have particular regard to the making of provision for the cure of souls in the diocese as a whole, including the provision of appropriate spheres of work and conditions of service for all persons engaged in the cure of souls and the provision of reasonable remuneration for such persons;
  - (b) have regard also to the traditions, needs and characteristics of individual parishes.
- (4) The diocesan synod may from time to time indicate to the pastoral committee any matters of diocesan policy to which the committee shall also have regard.

### 3 **Formulation and submission to bishop of draft proposals.**

- (1) Before deciding to make any recommendations to the bishop, the pastoral committee shall so far as may be practicable ascertain the views of the interested parties or, subject to subsection (7)(a) in the case of interested parties being local planning authorities, invite them to express their views.
- (2) Subject to subsections (3) and (4), in this Part “interested parties”, in relation to any recommendations, proposals or draft scheme or order, means—
- (a) incumbents of any benefices which would be affected by the implementing thereof, including vicars in a team ministry established for the area of any such benefice;
  - (b) the patrons of any such benefices;
  - (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; and
  - (f) the local planning authority or authorities concerned.

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 thereof.

- (3) In this Part “interested parties”, in relation to any recommendations, proposals, draft scheme or order which are or is limited to creating, altering or dissolving archdeaconries or deaneries, or altering the name of any archdeaconry or deanery, means—
- (a) the parochial church councils of any parishes for which a change of archdeaconry or deanery, or an alteration of the name thereof, is contemplated or proposed and the parochial church councils of any conventional districts wholly or partly within such parishes;
  - (b) the incumbents of benefices to which such parishes belong and the priests in charge of such districts; and
  - (c) the archdeacons and rural deans of the archdeaconries and deaneries affected and the lay chairmen of the deanery synods of such deaneries.

[<sup>F1</sup>Where a team ministry is established for the area of a benefice, the reference in paragraph (b) to the incumbents of benefices shall in relation to that benefice be construed as a reference to all the persons who constitute the team under section 20(1).]

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- (4) In the case of proposals and orders under section 14, the local planning authority or authorities shall not be included among the interested parties.
- (5) In the case of interested parties, being incumbents or vicars in a team ministry, the pastoral committee shall, before reaching their decision, afford to each incumbent or vicar, if he 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 thereof), if he so desires.
- (6) In the case of interested parties, being parochial church councils, the committee shall, before reaching their decision, afford to each council or their representative, if the council so request, an opportunity of meeting the committee or, if the committee so decide, a sub-committee thereof, or, with the consent of the council, a representative of the committee.
- (7) Before deciding to make a recommendation that a declaration of redundancy be made in respect of any church the committee shall—
  - (a) ascertain the views of any local planning authority or authorities concerned;
  - (b) notify the Council for the Care of Churches 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 are required to prepare under subsection (8).
- (8) As soon as practicable after receiving a notice under subsection (7) the said 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;
  - (c) any special features of any churchyard or burial ground annexed to any of them;and shall send a copy of that report to the Commissioners, the diocesan board of finance and the committee.
- (9) When the committee have decided to make recommendations, they 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 of the draft proposals as appear to him desirable.
- (10) The committee shall annexe to the draft proposals formulated by them a statement of the views of the interested parties and, if those proposals include a proposal that a declaration of redundancy be made in respect of any church, the committee shall annexe a copy of the report prepared by the said Council under subsection (8) to the draft proposals.
- (11) 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.

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### Textual Amendments

- F1** Words inserted by [Church of England \(Legal Aid and Miscellaneous Provisions\) Measure 1988 \(No. 1, SIF 21:1\)](#), **s. 11**

## 4 Approval by bishop of draft proposals.

- (1) If the bishop approves either with or without amendments draft proposals submitted to him under section 3(9) he shall submit the proposals as approved to the Commissioners and inform the pastoral committee that he has done so.
- (2) The pastoral committee shall send a copy of the proposals as approved by the bishop to every interested party with a notice informing him—
  - (a) that if the Commissioners prepare a draft scheme or order to give effect to the proposals he will be given an opportunity of making representations with respect thereto; but
  - (b) that any interested party, other than a parochial church council, may by notice in writing served on the Commissioners relinquish his right to receive a copy of the draft scheme or order and the notice specifying the period within which representation may be made.

## 5 Amendment of proposals and preparation of draft scheme or order by Commissioners.

- (1) The Commissioners shall consider any proposals submitted to them as aforesaid and the bishop, in consultation with the pastoral committee, shall consider any comments made by the Commissioners with respect to any of the proposals.
- (2) If the proposals provide for a declaration of redundancy and also provide, in the circumstances mentioned in section 46 or section 47—
  - (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 in the church, or
  - (c) for the case and maintenance of the church by the Redundant Churches Fund; the Commissioners shall consult the Advisory Board.
- (3) After the provisions of the foregoing subsections have been complied with the Commissioners may make, with the agreement of the bishop given after consultation with the pastoral committee, such amendments of the proposals as appear to them desirable.
- (4) If it appears to the Commissioners that the implementing of the proposals, with such amendments (if any) as may have been made under subsection (3), would be within the powers exercisable under this Measure (other than section 36) by a pastoral scheme or order, they shall proceed as follows—
  - (a) if the implementing of the proposals or any of them would require the exercise of powers only exercisable by a pastoral scheme, the Commissioners shall prepare a draft scheme to give effect to the proposals; or
  - (b) if all the proposals could be implemented by the exercise of powers by a pastoral order (being powers mentioned in section 37), they shall prepare a draft order to give effect to the proposals:

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Provided that—

- (i) the Commissioners may, with the agreement of the bishop given after consultation with the 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 some but not all the proposals concerned could be implemented by a pastoral order, the Commissioners may prepare a draft order to give effect to those proposals, or some of them, and prepare a draft scheme to give effect to the other proposals;
- (iii) the Commissioners shall not be obliged to prepare a draft order to give effect to a proposal to create an archdeaconry or a proposal that the income of the endowments of a benefice, or part thereof, shall be paid to the income account of the diocesan stipends fund.

## **6 Notice and publication of draft schemes or orders.**

- (1) Subject to subsection (2), the Commissioners shall serve a copy of any draft scheme or order prepared under section 5 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) Subsection (1) shall not apply in relation to any interested party who in accordance with section 4(2) has relinquished his right to receive a copy of the draft scheme or order in question and the notice for which subsection (1) provides.
- (3) If a draft scheme provides for a declaration of redundancy, the Commissioners shall—
  - (a) also serve a copy thereof on the Advisory Board and on the Commonwealth War Graves Commission and, if the draft scheme provides for the care and maintenance of the redundant building by the Redundant Churches Fund, on that Fund;
  - (b) publish in one or more newspapers circulating in the locality affected by the scheme a notice stating the objects of the draft scheme 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 a date not less than twenty-eight days after the first publication of the notice in such a newspaper;and the provisions of paragraph (a) (so far as it relates to the said Commission) and of paragraph (b) shall also apply to a draft scheme providing for any of the matters mentioned in section 30.
- (4) The Commissioners shall, in the case of every draft scheme, send copies of such a notice as is mentioned in subsection (3), 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 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.
- (5) The Commissioners shall consider any written representations duly made with respect to any draft scheme or order and may, if they think fit, afford an opportunity to any person, whether he has made written representations or not, to make oral representations to their representative with respect to the draft scheme or order.

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- (6) 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.

## **7 Amendment of draft schemes or orders.**

- (1) The Commissioners—
- (a) at the request of the bishop made after consultation with the pastoral committee, or
  - (b) as a result of any representations,
- may amend any draft scheme or order 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 are made, the amended draft scheme or order shall be treated in the same manner as an original draft scheme or order, and section 6, other than subsection (2), shall apply thereto accordingly.

## **8 Making of schemes or orders.**

- (1) Where the Commissioners, having considered the representations (if any), are of opinion that any such draft scheme should be made, and do not propose to amend or further amend it under section 7, 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, and shall submit it for confirmation by Her Majesty in Council.
- (2) Where no representations with respect to any such draft order have been made, the Commissioners shall seal a copy thereof and submit it to the bishop.
- (3) Where representations with respect to any such draft order have been made, then, unless—
- (a) as a result of those representations, the Commissioners decide that the order should not be made, or
  - (b) the Commissioners propose to amend or further amend the draft order under section 7,
- they shall seal a copy thereof and submit it to the bishop.
- (4) Where a copy of an order is submitted to the bishop under this section, he may by applying his seal thereto make the order.

## **9 Confirmation of schemes by Order in Council.**

- (1) As soon as possible after a scheme is submitted for confirmation by Her Majesty in Council under section 8, the Commissioners shall—
- (a) so far as practicable serve on the persons who duly made written representations with respect to the draft scheme notice of such submission, together with a statement in writing of the Commissioners' decision with respect to those representations and the reasons therefor; and
  - (b) serve on any other persons, being interested parties, notice of such submission; and a notice under this subsection shall inform persons who have duly made such representations of their rights, on obtaining the leave of the Judicial Committee of the

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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.

When submitting a scheme for confirmation by Her Majesty in Council the Commissioners shall inform the Clerk of the Privy Council of the date which is to be specified in notices under this subsection relating to the scheme.

- (2) Any person who has duly made written representations with respect to the draft scheme may appeal to Her Majesty in Council against the scheme or any provisions thereof, but only with the leave of the Judicial Committee of the Privy Council.
- (3) The provisions of Schedule 2 shall apply to applications for leave to appeal, and to appeals, to Her Majesty in Council under this section.
- (4) If—
  - (a) no notice of intention to apply for leave to appeal is given on or before the date specified in subsection (1), or
  - (b) no application for such leave is made within the period prescribed by paragraph 4 of Schedule 2, or
  - (c) the Judicial Committee refuses to grant such leave, or
  - (d) the appeal stands dismissed for non-prosecution by virtue of paragraph 11 of that Schedule,
  - [<sup>F2</sup>(e) no person has duly made written representations with respect to the draft scheme; or
  - (f) written representations with respect to the draft scheme have been duly made but it has not been practicable to serve any notice under subsection (1)(a),]Her Majesty may by Order in Council confirm the scheme.
- (5) An Order in Council made under this section shall not be a statutory instrument as defined by section 1 of the <sup>M1</sup>Statutory Instruments Act 1946, and the provisions of that Act shall accordingly not apply thereto.
- (6) If leave to appeal is granted, the Judicial Committee of the Privy Council shall hear the appeal, and the Judicial Committee shall make a report thereon and may propose to Her Majesty in Council that the appeal should be allowed or dismissed or that the scheme should be returned to the Commissioners for reconsideration, and Her Majesty in Council may accordingly—
  - (a) allow the appeal, in which case the scheme shall be of no effect, but without prejudice to the making and submission of a further scheme, or
  - (b) dismiss the appeal and confirm the scheme, or
  - (c) return the scheme to the Commissioners for reconsideration.
- (7) Where a scheme is returned to the Commissioners for reconsideration as aforesaid, they may—
  - (a) withdraw the scheme, or
  - (b) re-submit the scheme without any amendment thereof, or
  - (c) amend the scheme with the agreement of the bishop given after consultation with the pastoral committee.
- (8) Where the Commissioners re-submit a scheme without amendment, the Judicial Committee of the Privy Council, without any further hearing, may propose to Her

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Majesty in Council that the appeal should be allowed or dismissed, and the like effect shall follow on that proposal as if it has been made under subsection (6).

- (9) Where the Commissioners amend the scheme, it shall be treated as a draft scheme amended under section 7 and the provisions of this Part shall apply thereto accordingly, and if the amended scheme is submitted to Her Majesty in accordance with those provisions, it shall, on such submission, be treated as a new scheme.

#### **Textual Amendments**

**F2** S. 9(4)(e)(f) inserted (1.9.1995) by 1995 No. 2, s. 11(a); Instrument dated 26.7.1995 made by Archbishops of Canterbury and York

#### **Marginal Citations**

**M1** 1946 c. 36.

## **10 Transmission of copies of Order in Council or order.**

- (1) The Commissioners shall send a copy of every Order in Council by which a scheme is confirmed under section 9 and of every order made by the bishop under section 8 to the interested parties, and, in the case of a scheme containing a declaration of redundancy, to the Advisory Board.
- (2) The Commissioners shall also send a copy of every such Order in Council or order to the registrar of the diocese concerned, who shall file it in the diocesan registry.

## **11 Validity and operation of schemes and orders.**

- (1) The validity of a scheme made and confirmed by Order in Council under this Part, or of an order made under this Part, shall not be questioned in any legal proceedings.
- (2) Except in so far as any such scheme or order, or any provision thereof, is expressed to come into operation on a date, event or contingency specified therein, it shall come into operation on the date on which the scheme is confirmed by Order in Council under section 9 or, as the case may be, the order is made by the bishop under section 8.

*Modified procedure for schemes and orders affecting more than one diocese*

## **12 Limited extension of diocesan proposals and schemes to other dioceses.**

- (1) The pastoral committee of any diocese may include in recommendations made by them such recommendations affecting another diocese as are capable of implementation by the exercise of the powers specified in section 35 and such recommendations and a scheme or order to implement them may be proceeded with, made and in the case of a scheme confirmed under and in accordance with the foregoing provisions of this Measure, subject to the following conditions:—
- (a) before ascertaining the views of any of the persons who would be interested parties as a result of the recommendations affecting the other diocese, the pastoral committee shall obtain the consent of the bishop of that other diocese to the consideration of those recommendations, and he shall, before giving his consent, consult the pastoral committee of his diocese;



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- (b) the bishop of the first-mentioned diocese shall not submit any draft proposals formulating such recommendations to the Commissioners under section 4(1) without the consent of the bishop of the other diocese.
- (2) The powers conferred by subsection (1) may be used to include recommendations affecting more than one other diocese, and in that case the conditions aforesaid shall be complied with in relation to each of the other dioceses.

### **13 Joint pastoral committees.**

- (1) If it appears to the bishop of two or more diocese that a committee should be constituted for the purpose of considering the boundaries of the dioceses concerned and the pastoral arrangements in the areas adjacent thereto and of making recommendations (if the committee so decide) the implementing of which would require the exercise of powers under section 36, then, if the Dioceses Commission gives its consent, they may by an instrument sealed by each of them provide for constituting a committee in accordance with the next following subsection.
- (2) The committee shall be known as the joint pastoral committee for the dioceses concerned, and shall comprise an equal number of members not exceeding five from each diocese, together with a member of the Dioceses Commission nominated by that Commission and a chairman appointed by the bishops jointly, or, in default of their agreement, by the Commissioners; and the members from any diocese shall include the bishop if he so desires and shall otherwise be nominated by the pastoral committee of the diocese concerned from among their members.
- (3) Without prejudice to the provisions of section 16(2), the functions of the joint pastoral committee, and the powers exercisable in pursuance of their proposals under section 36, may be limited by the instrument aforesaid or any subsequent instrument sealed by the bishops of the dioceses concerned to a specified section or sections of the boundaries of the dioceses concerned or to an area or areas so specified, or to the consideration of proposals or questions so specified relating to those boundaries or areas, but any such limitation may be revoked or varied by a subsequent instrument sealed by the bishops of the dioceses concerned.
- (4) Paragraphs 7 to 12 of Schedule 1 shall apply to a joint pastoral committee in like manner as they apply to the pastoral committee of a diocese, with the omission of the reference in paragraph 12 to the directions of the diocesan synod.
- (5) Any recommendations made by the joint pastoral committee shall be made to the bishops of the dioceses concerned, and section 3 shall apply to any such recommendations and their formulation and submission in draft proposals in like manner as it applies to the recommendations and draft proposals of the pastoral committee of a diocese, and the like proceedings may be taken on such proposals under sections 3 to 10 as may be taken on proposals formulated and submitted by a pastoral committee, subject to the following modifications:—
  - (a) anything required or authorised to be done by or to the bishop or registrar of the diocese shall be required or authorised to be done by or to the bishops or registrars of the dioceses concerned;
  - (b) the words in section 5(4) “(other than section 36)” shall be omitted and so much of that sub-section as relates to the preparation of a draft order shall not apply.

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- (6) If it appears to the bishops of the dioceses concerned that the purposes for which a joint pastoral committee was appointed have been sufficiently fulfilled, either by the making of a scheme or by a report or otherwise, or are unlikely to be fulfilled, they may by instrument sealed by them dissolve the committee.

### *Supplementary*

#### **14 Power of bishop to formulate and submit proposals on certain matters.**

- (1) If the bishop is of the opinion after consultation with the pastoral committee that proposals which could be implemented under Part II by a pastoral order [F3] should be so implemented and the interested parties have consented to the proposals, then—
- (a) the pastoral committee shall prepare a draft order to give effect to the proposals and submit it to the bishop for his approval;
  - (b) the bishop may, by applying his seal thereto, make the order under section 8(4); and
  - (c) the pastoral committee shall send to the Commissioners and the interested parties a copy of any order made under this subsection.]
- (2) Proposals submitted under subsection (1) may provide for including among any benefices to be held in plurality one or more benefices from a diocese other than the diocese of the bishop submitting the proposals, but before seeking the consents of the interested parties in the other diocese, the said bishop shall obtain the consent of the bishop of the other diocese, who shall before giving it consult the pastoral committee of his diocese.

#### **Textual Amendments**

- F3** Words in s. 14(1) substituted (1.1.2001) by virtue of [2000 Measure No. 1, s. 10, Sch. 6 para. 2; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York](#)

#### **15 Withdrawal of scheme or order at request of bishop.**

If the bishop of the diocese concerned or, in a case to which section 12, section 13 or section 14(2) applies, the bishops of the dioceses concerned, requests or request the Commissioners not to proceed with any proposals, or to withdraw a draft scheme or order, the Commissioners shall comply with that request, but without prejudice to the making of fresh proposals;

Provided that such a request shall only be made after consultation with the pastoral committee or committees or (in a case to which section 13 applies) the joint pastoral committee of the diocese or dioceses concerned.

#### **16 Supplementary powers of Commissioners and pastoral committees.**

- (1) At any time between the submission of proposals to the Commissioners under this Part and the making of a scheme by them or the making of an order by the bishop with respect to the proposals, the Commissioners may, without reference to any other person, make such amendments of the proposals or of any draft scheme or order

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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 pastoral committee or a joint pastoral 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.

**Status:**

Point in time view as at 01/01/2001.

**Changes to legislation:**

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