

Status: Point in time view as at 01/01/2001.

Changes to legislation: There are currently no known outstanding effects for the Church of England (Miscellaneous Provisions) Measure 2000, SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 8.

AMENDMENT OF ENDOWMENTS AND GLEBE MEASURE 1976

1 The ^{M1}Endowments and Glebe Measure 1976 shall be amended as follows.

Marginal Citations

M1 1976 No. 4.

2 In section 11—

- (a) in subsection (2) the words “, on or after the appointed day” shall be omitted and for the words “Commissioners” there shall be substituted the words “Diocesan Board of Finance of the appropriate diocese”;
- (b) in subsection (3) after the word “Commissioners” there shall be inserted the words “ and any Diocesan Board of Finance qualified to benefit from the trust in question ”;
- (c) for subsection (5) there shall be substituted the following subsection—

“(5) The Diocesan Board of Finance shall allocate to the capital account of its diocesan stipends fund any property which is transferred to it under subsection (2) above.”.

3 In section 18—

- (a) in subsection (1) the words “, with the consent of the Commissioners,” shall be omitted;
- (b) in subsection (2) the words “of the Commissioners and” shall be omitted.

4 After section 19 there shall be inserted the following section—

“19A Section 19 schemes: subsidiaries.

- (1) A scheme made under section 19 above may provide for the setting up of a wholly owned subsidiary or subsidiaries of the Diocesan Board of Finance.
- (2) Any such subsidiary shall, subject to the provisions of the scheme, have the same powers and duties as the Diocesan Board of Finance with respect to holding, managing and dealing with such glebe land as may be specified in the scheme.”.

5 In section 20—

- (a) for subsection (1) there shall be substituted the following subsection—

“(1) Subject to the following provisions of this section, a Diocesan Board of Finance may with the consent of the Commissioners sell, exchange, lease, mortgage or otherwise deal with any diocesan glebe land of the diocese; and where the amenities of any land

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will be affected by the proposed transaction and the Board or the Commissioners think it necessary to do so in the interest of safeguarding those amenities they may, notwithstanding anything in section 19(1) above, include or require to be included such terms safeguarding those amenities as, having regard to all the circumstances, they consider reasonable and proper.”;

- (b) for subsection (2) there shall be substituted the following subsections—
- “(2) The consent of the Commissioners shall not be required for a disposition of land to a subsidiary of the Diocesan Board of Finance for the purposes of a scheme made under section 19A above.
- (2A) Subject to subsection (6A) below and without prejudice to subsection (2) above, the consent of the Commissioners shall not be required for a disposition of land if—
- (a) the disposition is made to a person who is not a connected person or a trustee for, or nominee of, a connected person; and
 - (b) the requirements of subsection (2B) or (2C) below have been complied with in relation to it.
- (2B) Except where the proposed disposition is the granting of such a lease as is mentioned in subsection (2C) below, the Diocesan Board of Finance must, before entering into an agreement for the sale or (as the case may be) for a lease or other disposition, of the land—
- (a) obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by and acting exclusively for the Board;
 - (b) advertise the proposed disposition for such period and in such manner as the surveyor has advised in his report (unless he has there advised that it would not be the best interests of the diocese to advertise the proposed disposition); and
 - (c) decide that it is satisfied, having considered the surveyor’s report, that the terms on which the disposition is proposed to be made (including any terms for safeguarding the amenities of the land) are the best that can be reasonably obtained for the diocese.
- (2C) Where the proposed disposition is the granting of a lease for a term ending not more than seven years after it is granted (other than one granted wholly or partly in consideration of a fine), the Board must, before entering into an agreement for the lease—
- (a) obtain and consider the advice on the proposed disposition of a person who is reasonably believed by the Board to have the requisite ability and practical experience to provide it with competent advice on the proposed disposition; and
 - (b) decide that it is satisfied, having considered that person’s advice, that the terms on which the disposition is proposed to be made (including any terms for safeguarding the

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- amenities of the land) are the best that can reasonably be obtained for the diocese.”;
- (c) in subsection (3) for the words from “authorisation given” to the end there shall be substituted the words “ operation of such provisions of the scheme as may be specified in the notice ”;
 - (d) in subsection (5) for the words from the beginning to “the terms of” there shall be substituted the words “ Where the Board proposes to enter into ”;
 - (e) after subsection (6) there shall be inserted the following subsection—
 - “(6A) Where representations are made to the Board under subsection (5) above, the Board shall forward a copy of the representations to the Commissioners together with details of the proposed transaction and subsection (2A) above shall not apply to the transaction unless the Commissioners, having considered the representations, direct that it shall apply.”;
 - (f) in subsection (7) for the words “approval of the terms of” there shall be substituted the words “ consent to ” and for the words from “forward” to “that subsection” there shall be substituted the words “ , if no representations were made to the Board under subsection (5) above with respect to the transaction, forward ”;
 - (g) in subsection (8) for the word “approve” there shall be substituted the words “ consent to ”;
 - (h) in subsection (9) for the word “approval” there shall be substituted the word “ consent ”;
 - (i) in subsection (10) for the word “approved” there shall be substituted the words “ consented to ” and for the words “those terms have been so approved” there shall be substituted the words “ such consent has been obtained ”;
 - (j) in subsection (11) for the words from “under this section” to “by the Board” there shall be substituted the words “ or any subsidiary of the Board under this section that all the requirements of the Measure with respect to the transaction have been complied with shall, if the document is sealed with the seal of the Board or the subsidiary or is signed on behalf of the Board by a person duly authorised by the Board or the subsidiary ”;
 - (k) at the end there shall be inserted the following subsection—
 - “(12) In this section the expressions “connected person” and “qualified surveyor” have the same meanings as in section 1 of the Parsonages Measure 1938.”.

6 For section 25 there shall be substituted the following section—

“25 Moneys arising from dealings, etc. with diocesan glebe land.

- (1) Subject to subsection (2) below, the proceeds of, or the capital moneys arising from, any sale, exchange or other dealing with diocesan glebe land of a diocese, and any other payment in the nature of capital received in respect of such land, shall be paid to the Board and the amount so paid shall be allocated by the Board to the capital account of the diocesan stipends fund of that diocese.
- (2) Where any diocesan glebe land of a diocese is subject to a mortgage and any estate or interest in that land is sold or exchanged by the Diocesan Board of

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Finance, any principal money or interest owing under the mortgage at the date of the completion of the transaction may be discharged by the Board out of the proceeds arising from the sale or exchange.

- (3) The costs, charges and expenses of the related transaction shall be paid by the Board out of the capital account of the diocesan stipends fund.
- (4) All rents or other periodical payments in the nature of income received in respect of the diocesan glebe land of the diocese, less so much of any such payments as is required to enable the Board or any subsidiary of the Board to meet any recurring outgoings attributable to that land or the expenses incurred in managing that land, together with any other payment in the nature of income received in respect of that land, shall be paid to the Board and, subject to subsection (5) below, allocated to the income account of the diocesan stipends fund.
- (5) Any periodical or other payment for or in respect of mines and minerals vested in a Diocesan Board of Finance or any subsidiary of such a board as part of the diocesan glebe land of the diocese, other than surface rents, shall be treated as a payment in the nature of capital for the purposes of subsection (1) above.”.

7 In section 26—

- (a) subsection (2) shall cease to have effect;
- (b) in subsection (3) after the word “transmit” there shall be inserted the words “to the Archbishops’ Council and ” and for the words “the Commissioners may” there shall be substituted the words “ that Council may ”.

8 In section 27 at the end there shall be inserted the words “ or matters concerning transactions affecting the diocesan glebe land ”.

9 In section 32—

- (a) for subsections (1) and (2) there shall be substituted the following subsections—

“(1) Where the Diocesan Board of Finance of a diocese is of the opinion—

- (a) that any parsonage land belonging to a benefice in the diocese or any part of such land and, in particular, a parsonage house or any excluded part of a parsonage house, is not necessary for the convenient occupation of the incumbent or, as the case may be, is not required as the residence house of the benefice, and
- (b) that such land should be transferred to the Board under this section,

it shall so notify the incumbent or any sequestrators concerned and, in the case of a benefice in respect of which a team ministry is established, every member of the team who may within one month following such notification, make written representations to the Commissioners with respect to the proposed transfer.

- (2) After considering any such representations the Commissioners shall notify the Board and the incumbent or sequestrators and every member of the team ministry of their decision with respect to the representation and the reasons therefor.

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- (2A) If no such representations are made within the said period of one month or the Commissioners decide that the proposed transfer should take place notwithstanding any representations, the bishop of the diocese concerned may by order under his seal provide for the transfer to the Board on such date as may be specified in the order of the land in question.”;
- (b) in subsection (7) for the word “Commissioners” there shall be substituted the word “ bishop ”;
- (c) in subsection (8) for the word “Commissioners” there shall be substituted the word “ bishop ”, for the word “their” there shall be substituted the word “ his ” and for the word “them” there shall be substituted the word “ him ”.
- 10 In section 35A—
- (a) in subsection (1) after the word “investments” there shall be inserted the words “ or deposits ” and for the words from “shall be paid” to the end there shall be substituted the words “ shall be allocated to the capital account of its diocesan stipends fund ”;
- (b) in subsection (2) after the word “investment” there shall be inserted the words “ or deposit ” and for the words from “shall be paid” to “by the Commissioners” there shall be substituted the words “ shall be allocated ”;
- (c) subsection (3) shall cease to have effect.
- 11 In section 38—
- (a) in subsection (2) for the word “Commissioners” there shall be substituted the words “ Diocesan Board of Finance ” and for the words from “and any such” to the end there shall be substituted the words “ and the provisions of section 59 of the Pluralities Act 1838 shall not apply in relation to any such lease ”;
- (b) in subsection (3) for the word “Commissioners” in both places where it appears there shall be substituted in each case the words “ Diocesan Board of Finance ”.
- 12 Section 42 shall cease to have effect.
- 13 In section 45(1)—
- (a) in the definition of “pastoral order” for the words “section 7 of the Pastoral Measure 1968” there shall be substituted the words “ section 8 of the Pastoral Measure 1983 ”;
- (b) in the definition of “pastoral scheme” for the words “Pastoral Measure 1968” there shall be substituted the words “ Pastoral Measure 1983 ” and for the words “section 12” there shall be substituted the words “ section 13 ”;
- (c) at the end there shall be inserted the following definition—
““subsidiary” has the same meaning as in the in the Companies Act 1985”.

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