



Care of Cathedrals Measure 2011

2011 No. 1

PART 1

GENERAL PRINCIPLE

1 Duty to have regard to cathedral's purpose

Any body on which functions of care and conservation are conferred by this Measure shall in exercising those functions have due regard to the fact that the cathedral church is the seat of the bishop and a centre of worship and mission.

Commencement Information

II S. 1 in force at 1.9.2011 by 2011 No. 2, art. 2

PART 2

APPROVAL FOR WORKS TO CATHEDRALS AND APPROVAL BODIES

Approval Required for Alterations to Cathedrals

2 Approval required for alterations to cathedrals

- (1) Subject to subsection (2) and to sections 5 and 6 the Chapter of a cathedral shall not, unless it has been approved under this Measure, implement or consent to the implementation of any proposal—
 - (a) for the carrying out of works, including works of repair or maintenance, on, above or below land the fee simple in which is vested in the corporate body, being works which would materially affect—

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- (i) the architectural, archaeological, artistic or historic character of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
 - (ii) the immediate setting of the cathedral church, or
 - (iii) any archaeological remains in or under the cathedral church or within its precinct, or
 - (iv) any human remains in or under the cathedral church or within its precinct, or
- (b) for the sale, loan or other disposal of any object the property in which is vested in the corporate body or which is in the possession or custody of the corporate body or to whose possession or custody the corporate body is entitled, being an object of architectural, archaeological, artistic or historic interest, including any object to which section 7 applies, or
- (c) for the carrying out of any work to any such object as is referred to in paragraph (b) which would materially affect the architectural, archaeological, artistic or historic character of the object, or
- (d) for the permanent addition to the cathedral church of any object which would materially affect the architectural, archaeological, artistic or historic character of the cathedral church.
- (2) Subsection (1) shall not apply in relation to anything which—
- (a) is done by the Chapter in furtherance of its duties under the constitution and statutes of the cathedral church with respect to the ordering of services or otherwise in furtherance of the mission of the cathedral church,
 - (b) is of a temporary nature, and
 - (c) does not materially affect the fabric of the cathedral church.
- (3) Where a proposal has been implemented in contravention of this section, anything done in connection with that implementation may be approved under this Measure and, in that event, shall be deemed to have been done in compliance with this section.

Commencement Information

I2 S. 2 in force at 1.9.2011 by [2011 No. 2, art. 2](#)

*Establishment and Functions of the Cathedrals
Fabric Commission and Fabric Advisory Committees*

3 The Cathedrals Fabric Commission for England

- (1) There shall continue to be a body called the Cathedrals Fabric Commission for England (in this Measure referred to as “the Commission”) which shall have the functions assigned to it by this Measure.
- (2) It shall be the duty of the Commission—
- (a) to give advice to the Chapter of a cathedral, and to the fabric advisory committee, on the care, conservation, repair or development of the cathedral church, any archaeological or human remains in or under the cathedral church or within its precinct, any buildings within its precinct, the landscape and

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- environment in which the cathedral church is situated and any objects referred to in section 2(1)(b);
- (b) to give advice to bishops and to the Vicar-General's court when it is sought under section 17 or 20;
 - (c) to consider and determine any application made to it in accordance with the provisions of this Measure by the Chapter of a cathedral;
 - (d) to promote co-operation between the Commission and organisations concerned with the care and study of buildings of architectural, archaeological, artistic or historic interest in England;
 - (e) to assist the Chapters of cathedrals by participating in educational and research projects which in the view of the Commission will promote the care, conservation, repair or development of cathedral churches and their ancillary buildings; and
 - (f) to maintain jointly with the Church Buildings Council, a library of books, plans, drawings, photographs and other material relating to cathedral and other churches and the objects in them.
- (3) It shall also be the duty of the Commission to promote, in consultation with Chapters, fabric advisory committees and such other persons or organisations as it thinks fit, by means of guidance or otherwise, standards of good practice to be observed in relation to—
- (a) the matters referred to in subsection (2)(a);
 - (b) the role and duties of cathedral architects or surveyors of the fabric and cathedral archeologists;
 - (c) the compilation, maintenance and dissemination of information of architectural, archaeological, artistic and historic interest concerning cathedral churches, archaeological remains in or under them or within their precincts and buildings within the precincts and any objects referred to in section 2(1)(b); and
 - (d) the form and content of the records required to be kept by the Chapter under section 27.
- (4) Schedule 1 shall have effect with respect to the Commission.

Commencement Information

I3 S. 3 in force at 1.9.2011 by [2011 No. 2, art. 2](#)

4 Establishment of fabric advisory committees

- (1) The Chapter of every cathedral and the Commission shall jointly establish a committee, to be called the fabric advisory committee, which shall have the functions assigned to it by this Measure.
- (2) It shall be the duty of the fabric advisory committee—
 - (a) to give advice to the Chapter of the cathedral on the care, conservation, repair or development of the cathedral church, any archaeological remains in or under the cathedral church or within its precinct, any buildings within its precinct, the landscape and environment in which the cathedral church is situated and any objects referred to in section 2(1)(b); and

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- (b) to consider and determine any application made to it in accordance with the provisions of this Measure by the Chapter of the cathedral.
- (3) Schedule 2 shall have effect with respect to fabric advisory committees.

Commencement Information

I4 S. 4 in force at 1.9.2011 by 2011 No. 2, art. 2

5 Powers of fabric advisory committee in relation to application of section 2

- (1) The fabric advisory committee shall have power—
 - (a) if requested to do so by the Chapter, to determine whether, under section 2(1), an application for approval of a proposal by the Chapter is required to be made; and
 - (b) after consultation with the Chapter and subject to the agreement of the Commission, to determine that section 2 is not to apply to proposals of any class or description specified by the committee and to vary or revoke any determination made under this paragraph.
- (2) If the Chapter wishes to have it determined whether a proposal is one to which section 2 does not apply by virtue of subsection (1)(b) the fabric advisory committee shall have power to determine that question.
- (3) Where the Commission has made a determination under section 6(2) in relation to any matter, the fabric advisory committee shall not make a determination under subsection (1)(a) in relation to the same matter.

Commencement Information

I5 S. 5 in force at 1.9.2011 by 2011 No. 2, art. 2

Application for Approval

6 Body to which application for approval to be made

- (1) Any application for approval for a proposal shall be made to the Commission where—
 - (a) the proposal would involve—
 - (i) the carrying out of works, including works of repair or maintenance, which would permanently alter the fabric of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
 - (ii) the demolition of any part of the cathedral church or any such building, or
 - (iii) the disturbance or destruction of any archaeological or human remains in or under the cathedral church or within its precinct, or
 - (iv) the sale, loan or other disposal of or the carrying out of any work to any object for the time being designated under section 24(4) in relation to the cathedral church as being of outstanding architectural, archaeological, artistic or historic interest, or

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- (b) the Commission declares in writing that the proposal gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be determined by it;
- and any application for approval for any other proposal other than an application under section 7(4)(a) shall be made to the fabric advisory committee.
- (2) If the Chapter or the fabric advisory committee wishes to have it determined whether under subsection (1) an application for approval is required to be made to the committee or to the Commission, the Commission shall have power to determine that question.
- (3) If the Commission considers that a proposal falls within subsection (1)(a), but that the proposal does not give rise to considerations of sufficient importance to require an application to be considered by it, it may make a declaration in writing to that effect and any application for approval of the proposal shall be made instead to the fabric advisory committee.
- (4) The Commission shall also have power, subject to subsection (5), to determine that subsection (1)(a) shall not apply to proposals of any class or description specified by the Commission in relation either to cathedrals generally or to such cathedrals as may be specified.
- (5) Before making a determination under subsection (4), the Commission shall consult any relevant Chapter and any relevant fabric advisory committee, English Heritage, the national amenity societies (or such person as the societies shall jointly appoint for the purposes of this section) and, in the case of a proposal described in section 2(1)(a), any relevant local planning authority.
- (6) Any application for approval of a proposal specified by the Commission under subsection (4) shall be made instead to the fabric advisory committee.
- (7) The Commission may revoke or vary any determination under subsection (4).
- (8) If, following a request in writing from the Chapter of a cathedral, the Commission is satisfied—
- (a) that a proposal or intended proposal falls within section 2(1)(a)(ii) or (iii) but does not fall within section 2(1)(a)(iv);
 - (b) that the proposal does not relate to the cathedral church itself or a building within the precinct of the cathedral church for the time being used for ecclesiastical purposes;
 - (c) that planning permission, listed building consent or scheduled monument consent is required for the carrying out of all the works to which the proposal relates; and
 - (d) that any considerations relevant to preserving the immediate setting of the cathedral church or any archaeological remains in or under the cathedral church or within its precinct will be or have been adequately taken into account by the person or body responsible for granting the permission or consent;
- the Commission may, after consulting the local planning authority, the fabric advisory committee and English Heritage, make a declaration in writing that no approval is required under this Measure for the proposal.
- (9) In subsection (8) “planning permission”, “listed building consent” and “scheduled monument consent” have the meanings respectively assigned to them by

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section 336(1) of the Town and Country Planning Act 1990 (c. 8), section 8(7) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) and section 2(3) (a) of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46).

(10) Where—

- (a) an application has been made to the fabric advisory committee by virtue of subsection (1) (not being an application in respect of which a determination has been made under subsection (2)), and
- (b) at least three members of the committee present and voting determine that the proposal in question gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be determined by the Commission,

the secretary of the committee shall refer the application to the Commission and shall notify the Chapter accordingly; and section 9 shall apply to that application.

(11) Any application for approval in pursuance of section 2(3) shall be made to the Commission.

(12) Any application under this section shall be made in accordance with rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 1).

Commencement Information

I6 S. 6 in force at 1.9.2011 by 2011 No. 2, art. 2

7 Treasure

(1) This section applies to any object which would, but for an order under section 2(2) of the Treasure Act 1996 (c. 24), be treasure within the meaning of that Act and which is found in or under the cathedral church or within its precinct.

(2) Where the administrator of the cathedral becomes aware that an object has been discovered which appears to be an object to which this section applies the administrator—

- (a) shall within 14 days notify the Commission in writing of the discovery; and
- (b) shall arrange for the object to be recorded in the inventory required to be compiled and maintained under section 24 and designated as treasure in that inventory in accordance with directions issued by the Commission.

(3) On receipt of a notification under subsection (2) the secretary of the Commission shall report the discovery, in writing, to the Secretary of State or to such a person or body as may be designated by the Secretary of State.

(4) The Chapter of the cathedral shall—

- (a) before implementing any proposal for the sale, loan or other disposal of an object to which this section applies, apply to the Commission for approval, unless the Commission's approval is required under section 6; and
- (b) before implementing any proposal for the sale or other disposal (other than a loan) of such an object, afford the British Museum or another registered museum nominated by the British Museum an opportunity of purchasing the object.

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- (5) Rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 may prescribe the procedure to be followed in connection with any matters arising under this section and in particular shall make provision for determining the purchase price to be paid under subsection (4)(b) and for the procedure for and the matters to be taken into account in arriving at the purchase price.
- (6) In subsection (4)(b) “registered museum” has the meaning ascribed to it in the Code of Practice issued under section 11 of the Treasure Act 1996 or such other meaning as may be specified by the Secretary of State.

Commencement Information

I7 S. 7 in force at 1.9.2011 by 2011 No. 2, art. 2

8 Applications for approval of fabric advisory committee

- (1) Where any application is made by the Chapter of a cathedral for the approval of the fabric advisory committee, the administrator shall display in the prescribed manner a notice in the prescribed form specifying the place where details of the proposal are available for inspection and stating that representations in writing with respect to the proposal may be sent to the secretary of the committee before the end of the prescribed period; and the administrator shall also send such a notice—
- (a) to the Commission, and
 - (b) if the application relates to a proposal of a kind described in section 2(1)(a)—
 - (i) to English Heritage,
 - (ii) to the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section), and
 - (iii) to the local planning authority.
- (2) After considering any representations made to it under this section, the fabric advisory committee shall determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval.
- (3) The secretary of the fabric advisory committee shall send a notice of the committee's decision—
- (a) to the Chapter of the cathedral,
 - (b) to the Commission, and
 - (c) to any body or person to whom notice of the application is required to be sent by virtue of subsection (1)(b),
- and the administrator of the cathedral shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection.

Commencement Information

I8 S. 8 in force at 1.9.2011 by 2011 No. 2, art. 2

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9 Applications for approval of Cathedrals Fabric Commission

- (1) Where any application is made by the Chapter of a cathedral for the approval of the Commission, the administrator shall—
 - (a) display in the prescribed manner, and
 - (b) send to the fabric advisory committee, English Heritage and the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section),
 a notice in the prescribed form specifying the place where details of the proposal are available for inspection and stating that representations in writing with respect to the proposal may be sent to the secretary of the Commission before the end of the prescribed period; and, if the application relates to a proposal of a kind described in section 2(1)(a), the administrator shall also send such a notice to the local planning authority.
- (2) Following receipt of the notice referred to in subsection (1), the secretary of the fabric advisory committee shall inform the Commission in writing whether the committee has considered the proposal and, if so, of its views.
- (3) After considering any representations made to it under this section, the Commission shall determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval.
- (4) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv), the Commission may consult the Church Commissioners on any financial considerations (other than any which relate to the valuation of the object in question) which may be relevant to the proposal and on which the Commission considers it appropriate to receive the advice of the Church Commissioners and the Church Commissioners shall give such advice as they consider appropriate.
- (5) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv), the Commission may request the Chapter of the cathedral to—
 - (a) consult the Council of the cathedral if it has not already done so; and
 - (b) inform the Commission of the Council's views on the proposal.
- (6) If a meeting is arranged between the Commission and the Chapter of the cathedral to discuss the proposal, the administrator shall notify the secretary of the fabric advisory committee of the meeting and the committee's representatives shall be entitled to be present at the meeting.
- (7) The secretary of the Commission shall send notice of the Commission's decision—
 - (a) to the Chapter of the cathedral,
 - (b) to the fabric advisory committee,
 - (c) to English Heritage,
 - (d) to the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section), and
 - (e) if the decision relates to a proposal of a kind described in section 2(1)(a), to the local planning authority,
 - (f) if the Commission has consulted the Church Commissioners on the proposal under subsection (4), to the Church Commissioners,

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and the administrator shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection.

- (8) This section shall apply in relation to an application for approval in pursuance of section 2(3) as it applies in relation to an application for approval of a proposal.

Commencement Information

I9 S. 9 in force at 1.9.2011 by 2011 No. 2, art. 2

Appeals

10 Appeals to Cathedrals Fabric Commission

- (1) Where, on an application made by the Chapter for the approval of the fabric advisory committee, approval is refused or is given subject to conditions, the Chapter may within the prescribed period appeal to the Commission.
- (2) Where, on an application made by the Chapter for the approval of the fabric advisory committee, the application is not determined by the fabric advisory committee with the period of 3 months immediately following the making of the application, the Chapter may, by notice given within the prescribed period to the Commission, request that the application be dealt with by the Commission.
- (3) The Commission, on considering an appeal under subsection (1), may reverse, confirm or vary the decision of the fabric advisory committee or any part of it.
- (4) The Commission, on dealing with an application for approval under subsection (2), shall, after considering any representations made to the fabric advisory committee under section 8, determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval; and any such determination shall have effect as if it had been given by the fabric advisory committee, except that subsection (1) shall not apply in respect of the determination.

Commencement Information

I10 S. 10 in force at 1.9.2011 by 2011 No. 2, art. 2

11 Commission of Review

- (1) Where—
 - (a) on an application for approval made to the Commission (including an application being dealt with by the Commission under section 10(2)), the Commission refuses to give its approval or gives approval subject to conditions, or
 - (b) on an appeal to the Commission under section 10(1), the Commission refuses to give its approval or refuses to reverse or vary conditions subject to which approval was given by the fabric advisory committee,

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the Chapter may, by notice given within the prescribed period to the registrar of the province in which the cathedral church is situated, request that the decision of the Commission be reviewed by a Commission of Review constituted under this section.

- (2) Where, on an application for approval made to the Commission (including an application being dealt with by the Commission under section 10(2) or on an appeal to the Commission under section 10(1)), the application or appeal is not determined by the Commission within the period of 3 months immediately following the end of the period prescribed for the purposes of section 9 or 10(1) or (2), as the case may be, the Chapter may, by notice given within the prescribed period to the registrar of the province in which the cathedral church is situated, request that the application or appeal be dealt with by a Commission of Review constituted under this section.
- (3) A Commission of Review shall be constituted of—
 - (a) the Dean of the Arches and Auditor or a person appointed by him or her, being a person who is qualified under section 3(3) of the Ecclesiastical Jurisdiction Measure 1963 (1963 No. 1) to be appointed Dean of the Arches and Auditor;
 - (b) one person appointed by the Archbishops of Canterbury and York, being a person who is or has been a dean, provost or residentiary canon of a cathedral church other than the cathedral church to which the application or appeal relates; and
 - (c) one person appointed by the Secretary of State, being a person who has special knowledge of the architecture, archaeology, art (including history of art) or history of cathedral churches;

but no person who has been a member of the Cathedrals Fabric Commission at any time during the preceding 5 years shall be appointed under paragraph (b) or (c).
- (4) A Commission of Review, on reviewing a decision of the Cathedrals Fabric Commission, may reverse, confirm or vary that decision or any part of it.
- (5) A Commission of Review, on dealing with an application for approval under subsection (2), shall, after considering any representations made to the Commission under section 9, determine whether to give its approval either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval, and any such determination shall, subject to subsection (7), have effect as if it had been given by the Commission.
- (6) A Commission of Review, on dealing with an appeal under subsection (2), may reverse, confirm or vary the decision of the fabric advisory committee or any part of it.
- (7) The decision of a Commission of Review shall be final.

Commencement Information

III S. 11 in force at 1.9.2011 by [2011 No. 2, art. 2](#)

12 Conditions applying to approval

- (1) Any approval given to an application under this Measure shall lapse at the expiry of the period of ten years from the date on which notice of the decision is given to the Chapter, provided that the body which gave the approval may extend that period by such period as it may specify.

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- (2) As soon as possible after the completion of any work for which approval has been given, the administrator of the cathedral shall notify the fabric advisory committee or the Commission, as the case may be, of the date of the completion.
- (3) In subsection (1) the reference to the date on which notice of the decision is given shall, in the case of an appeal to the Commission under section 10(1) or an application for review by a Commission of Review under section 11(1), be construed as a reference to the date on which notice of the decision of the Commission or, as the case may be, of the Commission of Review, is given to the Chapter.
- (4) Subsection (1) shall apply to approvals given before 1st January 2008 as if for the reference to 10 years from the date referred to in that subsection there were substituted a reference to 1st January 2018.

Commencement Information

I12 S. 12 in force at 1.9.2011 by 2011 No. 2, art. 2

13 Registers of applications

- (1) The Commission and any fabric advisory committee shall each keep a register, in the prescribed form, of applications for approval dealt with by them and shall make such arrangements as are prescribed—
 - (a) for inspection of the registers by any person;
 - (b) for the supply, on application by any person, of extracts of that part of the register which relates to an application for approval specified by that person;
 - (c) for enabling the Commission or a fabric advisory committee to supply, if it thinks fit, copies of the whole register or further parts of it, on application by any person.
- (2) The Commission or any fabric advisory committee may impose a fee of a reasonable amount for the supply of copies of or extracts from the register under subsection (1) and the amount charged may vary according to the circumstances.

Commencement Information

I13 S. 13 in force at 1.9.2011 by 2011 No. 2, art. 2

14 Right of appeal by tenant

- (1) Where the Commission or a fabric advisory committee has refused approval for a proposal from a Chapter of a cathedral for the carrying out of works by a tenant for which the Chapter's consent is required or given approval subject to conditions, the tenant may, within the prescribed period and subject to subsection (2), appeal to the Commission (against a decision of a fabric advisory committee) or request that a decision of the Commission be reviewed by a Commission of Review constituted under section 11.
- (2) Subsection (1) applies whether or not the Chapter has appealed against the refusal or the imposition of conditions, or requested that the decision be reviewed by a Commission of Review, as the case may be.

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- (3) A tenant who appeals or requests a review under subsection (1) shall give written notice of the appeal or review to the Chapter.
- (4) The Chapter shall be entitled to appear at the proceedings on any appeal or review under subsection (1).
- (5) Sections 10(3) and 11(4) shall apply to an appeal or review under subsection (1) as they apply to an appeal or review under those sections.

Commencement Information

114 S. 14 in force at 1.9.2011 by 2011 No. 2, art. 2

PART 3

POWERS OF BISHOP TO PREVENT OR STOP CONTRAVENTIONS OF SECTION 2 AND TO RESTORE STATUS QUO

15 Preliminary interview regarding contravention of section 2

Subject to section 17(1), where it appears to the bishop of a diocese, whether of his own motion or on the advice of the Commission or on the basis of an allegation made by another person, that the Chapter of the cathedral of the diocese may have committed or be intending to commit an act in contravention of section 2, he shall, as soon as practicable and before taking any further action, afford to the members of the Chapter an opportunity of being interviewed in private by him with respect to the matter in question.

Commencement Information

115 S. 15 in force at 1.9.2011 by 2011 No. 2, art. 2

16 Power of bishop to order special visitation

- (1) Subject to subsection (2), where it appears to a bishop, after complying with section 15 with respect to the members of a Chapter, that the Chapter has committed or is intending to commit an act mentioned in that section, he shall within such period as may be prescribed order a special visitation under this section in respect of the cathedral church for the purpose of inquiring into the matter in question; and, if he does so, he shall cause a written statement of his reasons for ordering the visitation to be sent to the Chapter.
- (2) It shall not be necessary for a bishop to order a special visitation under this section in respect of any act if—
 - (a) he is satisfied that the Chapter intends to make an application for approval of that act under this Measure; or
 - (b) the Chapter has made such an application and the application has not been refused; or
 - (c) he considers that there are exceptional reasons for not doing so.

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- (3) Without prejudice to any rule of law as to the effect of episcopal visitations, where a special visitation under this section is ordered by a bishop in respect of a cathedral church, the Chapter of the cathedral shall have no power to act as such with regard to the matter under inquiry without the prior approval in writing of the bishop.
- (4) A special visitation under this section shall not be treated as an episcopal visitation for the purposes of any provision contained in the constitution and statutes of the cathedral church restricting the ordering of such visitations.

Commencement Information

I16 S. 16 in force at 1.9.2011 by 2011 No. 2, art. 2

17 Power of bishop to give directions

- (1) Where it appears to a bishop that a Chapter may have committed or be intending to commit an act in contravention of section 2 and he is satisfied, having regard to the urgency of the matter, that there is insufficient time to comply with section 15, he may from time to time give such interim directions with respect to the matter in question as he thinks fit to the Chapter before complying with that section.
- (2) Where a bishop has ordered a special visitation he may from time to time give such directions with respect to the matter in question as he thinks fit to the Chapter.
- (3) Without prejudice to the generality of the powers to give directions under this section, such directions may require the Chapter—
 - (a) to take such steps as the bishop may consider necessary for the purpose of avoiding a contravention of section 2;
 - (b) to refrain from taking such steps as the bishop may consider likely to lead to such a contravention;
 - (c) to take such steps as the bishop may consider necessary for the purpose of restoring the position so far as possible to that which existed before the act was committed.
- (4) Before a bishop gives directions under this section which include a requirement of the kind mentioned in subsection (3)(c) he shall seek the advice of the Commission.
- (5) Directions given by a bishop under this section shall be in writing unless he is satisfied, having regard to the urgency of the matter, that there is insufficient time for them to be committed to writing; but if they are given orally he shall as soon as practicable commit them to writing.
- (6) It shall be the duty of a Chapter to which directions are given under this section to comply with them.

Commencement Information

I17 S. 17 in force at 1.9.2011 by 2011 No. 2, art. 2

Status: Point in time view as at 01/09/2011.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Care of Cathedrals Measure 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

18 Institution of proceedings for injunction or restoration order

- (1) Where a bishop has ordered a special visitation and he considers it necessary or expedient to take further steps in respect of any actual or intended contravention of section 2, he may authorise a person designated by him for the purposes of this Measure, either generally or in a particular case, to institute proceedings on his behalf against the Chapter of the cathedral for the purpose of obtaining an injunction or restoration order or both against the Chapter.
- (2) Where a bishop proposes to authorise the institution of proceedings under subsection (1), he shall inform the Church Commissioners of the course he proposes to take and the Church Commissioners shall, as soon as practicable—
 - (a) decide whether or not they would be prepared to pay, under section 58 of the Ecclesiastical Jurisdiction Measure 1963 (1963 No. 1), any costs or expenses incurred in respect of the proceedings and, if so, to what extent; and
 - (b) notify the bishop of their decision.

Commencement Information

I18 S. 18 in force at 1.9.2011 by 2011 No. 2, art. 2

19 Jurisdiction and composition of Vicar-General's court

- (1) The Vicar-General's court of each of the provinces of Canterbury and York shall, in respect of every cathedral church in the province, have original jurisdiction to hear and determine proceedings instituted under section 18.
- (2) Where, in any such proceedings—
 - (a) the Vicar-General is for any reason unable to act; or
 - (b) the cathedral church is in a diocese of which the Vicar-General is the chancellor,
 the court shall be presided over by a chancellor appointed by the Archbishop of the province of Canterbury or York, as the case may be, to act as deputy Vicar-General; and a chancellor so appointed shall have all the powers and perform all the duties of the Vicar-General.
- (3) Any such proceedings shall be instituted and conducted in such manner as the Vicars-General of Canterbury and York, acting jointly, may direct.

Commencement Information

I19 S. 19 in force at 1.9.2011 by 2011 No. 2, art. 2

20 Powers of court

- (1) In any proceedings instituted under section 18 against a Chapter, the court may by way of special citation add as a further party to the proceedings any person who appears to the court to be or to have been concerned in furthering the alleged contravention of section 2.
- (2) A special citation under subsection (1) may require the person to whom it is issued to attend the court at such time and place as may be specified in the citation.

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- (3) Where, in any such proceedings, it appears to the court that the Chapter intends to commit or continue to commit any act in contravention of section 2, the court may issue an injunction restraining—
 - (a) the Chapter from committing or continuing to commit that act; or
 - (b) any other party to the proceedings from committing or continuing to commit any act in furtherance of the contravention.
- (4) Where, in any such proceedings, it appears to the court that the Chapter against which the proceedings were instituted has committed any act in contravention of section 2, the court may make an order (a “restoration order”) requiring the Chapter or any other party to the proceedings to take such steps as the court may consider necessary, within such time as the court may specify, for the purpose of restoring the position so far as possible to that which existed before the act was committed.
- (5) The court shall not make a restoration order in respect of any act unless the court is satisfied that less than 6 years have elapsed since the act was committed.
- (6) The court shall seek the advice of the Commission before making a restoration order.
- (7) Where proceedings for obtaining a restoration order are instituted on behalf of a bishop under section 18 and any fact relevant to the institution of such proceedings has been deliberately concealed from him, the period of 6 years mentioned in subsection (5) shall not begin to run until the bishop has discovered the concealment or could with reasonable diligence have discovered it.
- (8) For the purpose of subsection (7), deliberate commission of a breach of duty in circumstances in which it is unlikely to be discovered for some time amounts to deliberate concealment of the facts involved in that breach of duty.
- (9) Failure to comply without reasonable excuse with any requirement of an injunction or restoration order shall be a contempt of the court.
- (10) In any such proceedings the court may order that the special visitation from which the proceedings ensued shall continue on such terms as it considers just or shall cease and may make such further order in relation to the proceedings as it considers just.

Commencement Information

I20 S. 20 in force at 1.9.2011 by [2011 No. 2, art. 2](#)

PART 4

MISCELLANEOUS AND GENERAL

21 Further powers of the Cathedrals Fabric Commission

- (1) The Commission may, on receiving a request from the Church Buildings Council, give advice to the Council with respect to works which are proposed to be carried out in relation to a church of the Church of England which is not a cathedral church.
- (2) The Commission—

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- (a) may, on receiving a request made with the approval of the Representative Body of the Church in Wales, give advice with respect to works which are proposed to be carried out in relation to a cathedral church in Wales; and
- (b) may in exceptional circumstances, with the agreement of the governing body of the Church concerned and of the Archbishops' Council, give advice in relation to works which are proposed to be carried out in relation to a cathedral church other than a cathedral church of the Church of England or the Church in Wales;

but it shall be a condition of giving any advice by virtue of this subsection that any expenses incurred by the Commission in giving that advice are reimbursed.

- (3) The Commission shall have power to exercise any functions in relation to moneys held by any other body or person for the benefit of cathedral churches generally, being functions delegated to it by that body or person.
- (4) For the purpose of exercising its functions under this Measure the Commission—
 - (a) may on behalf of the Archbishops' Council acquire books, plans, drawings, photographs and other material relating to cathedral churches; and
 - (b) may from time to time hold conferences for cathedral clergy and staff, cathedral architects or surveyors of the fabric, cathedral archaeologists and others concerned with the care, conservation and maintenance of cathedral churches.

Commencement Information

I21 S. 21 in force at 1.9.2011 by 2011 No. 2, art. 2

22 General duties of approval bodies

The Commission, any fabric advisory committee and any Commission of Review shall, without prejudice to the duty imposed upon them by section 1, in exercising any function conferred upon them by the preceding sections of this Measure, have due regard to the desirability of preserving—

- (a) the fabric of the cathedral church and any features of architectural, archaeological, artistic or historic interest which it possesses;
- (b) the immediate setting of the cathedral church;
- (c) any building within the precinct of the cathedral church of architectural, archaeological, artistic or historic interest;
- (d) any archaeological or human remains in or under the cathedral church or within its precinct; and
- (e) any objects referred to in section 2(1)(b).

Commencement Information

I22 S. 22 in force at 1.9.2011 by 2011 No. 2, art. 2

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23 Provisions as to cathedral architects or surveyors of the fabric and cathedral archaeologists

- (1) It shall be the duty of the Chapter of a cathedral to consult the Commission before appointing a cathedral architect or surveyor of the fabric.
- (2) It shall be the duty of the Chapter of a cathedral after consulting the Commission to appoint a cathedral archaeologist, except in any case in which the Commission notifies the Chapter that in the view of the Commission the archaeological significance of that cathedral church does not justify such a appointment.

Commencement Information

I23 S. 23 in force at 1.9.2011 by 2011 No. 2, art. 2

24 Inventories

- (1) It shall be the duty of the Chapter of a cathedral, in accordance with rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991, to compile and maintain an inventory of all objects—
 - (a) the property in which is vested in the corporate body, or
 - (b) which are in the possession or custody of the corporate body, or
 - (c) to whose possession or custody the corporate body is entitled,which the fabric advisory committee considers to be of architectural, archaeological, artistic or historic interest.
- (2) The compilation of the inventory under subsection (1) shall be completed within such period as the Commission, after consultation with the Chapter and the fabric advisory committee, determines, being such period as it considers reasonable, having regard to the particular circumstances of each case, and different periods may be specified by the Commission for different parts of the inventory.
- (3) The Chapter shall make an annual report to the fabric advisory committee on the contents of the inventory or on progress made in compiling the inventory, which shall, in particular, certify the accuracy of the inventory or any part of it which has been compiled and describe any alterations which have been made to the inventory during the 12 months preceding the report.
- (4) It shall be the duty of the fabric advisory committee of a cathedral church to designate those objects included in the inventory compiled and maintained for the cathedral church under subsection (1) which the committee considers, after consultation with the Commission, to be of outstanding architectural, archaeological, artistic or historic interest.

Commencement Information

I24 S. 24 in force at 1.9.2011 by 2011 No. 2, art. 2

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25 Precinct plans

- (1) It shall be the duty of the Chapter of a cathedral to prepare a plan indicating the extent of the land surrounding the cathedral church of which the fee simple is vested in the corporate body and the administrator shall send the plan to the Commission.
- (2) On receiving a plan prepared by the Chapter under subsection (1), the Commission shall, after consultation with the Chapter, indicate thereon the precinct of the cathedral church for the purposes of this Measure, which shall consist of so much of the land referred to in subsection (1) as, in the opinion of the Commission, is necessary to preserve or protect—
 - (a) the architectural, archaeological, artistic or historic character of—
 - (i) the cathedral church,
 - (ii) any buildings of architectural, archaeological, artistic or historic interest associated with it,
 - (iii) any archaeological or human remains associated with or situated in, under or near to the cathedral church or any such buildings, and
 - (b) the setting of the cathedral church and any such buildings and remains.
- (3) In implementing the requirements of subsection (2), the Commission shall have regard to the context in which the cathedral church and any such buildings as are referred to in that subsection have developed over time.
- (4) The Chapter shall keep the plan prepared under subsection (1) up to date and shall notify the Commission of any changes made to it, whereupon the Commission shall, after consultation with the Chapter, make any alterations to the precinct indicated on the plan which it considers appropriate, having regard to subsections (2) and (3).
- (5) The Commission may, after consultation with the Chapter, make such alterations to the precinct indicated on the plan prepared under subsection (1) as it considers appropriate, having regard to subsections (2) and (3).

Commencement Information

I25 S. 25 in force at 1.9.2011 by 2011 No. 2, art. 2

26 Reports and inspections by cathedral architects or surveyors of the fabric

- (1) Subject to subsection (3), it shall be the duty of the Chapter of a cathedral to arrange during the period of 5 years beginning with 1st January 2008 and during every subsequent period of 5 years, for the cathedral architect or surveyor of the fabric, in consultation with the cathedral archaeologist (if any), to make a report in writing to the Chapter on—
 - (a) any works which the architect or surveyor of the fabric considers will need to be carried out in relation to the cathedral church and any ancillary building, and
 - (b) on the urgency with which the architect or surveyor of the fabric considers that they should be carried out;
 and a copy of that report shall be sent to the Commission.
- (2) Subject to subsection (3), the reports referred to in subsection (1) shall be based upon such inspection or inspections of the fabric of the cathedral church and any ancillary

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- building as the cathedral architect or surveyor of the fabric considers necessary to enable him or her to fulfil the requirements of subsection (1).
- (3) The first report referred to in subsection (1) made by a cathedral architect or surveyor of the fabric appointed after 1st January 2008 shall be based on a full and detailed inspection of the cathedral church and any ancillary building and shall be made within the period of 2 years beginning with the date of the appointment.
- (4) In its application to a cathedral architect or surveyor of the fabric appointed after 1st January 2008, subsection (1) shall have effect so that the second and subsequent reports of the architect or surveyor of the fabric shall be made during the period of 5 years beginning with the date of the first report and every subsequent period of 5 years.
- (5) The cathedral architect or surveyor of the fabric shall, within the period of 12 months beginning with 1st January 2008 and annually thereafter, make, in consultation with the architect or surveyor appointed under section 20 of the Cathedrals Measure 1999 (1999 No. 1) (if a different person) and the cathedral archaeologist (if any), a report in writing to the Chapter containing—
- (a) a summary of any works to the cathedral church and any ancillary building carried out during the preceding year,
 - (b) an account of progress made in giving effect to the recommendations made in the reports referred in subsection (1), and
 - (c) any other matters which the cathedral architect or surveyor of the fabric considers to be relevant to the care and conservation of the cathedral church.
- (6) In this section “ancillary building” means any building which the Chapter may from time to time specify, being a building attached to or adjacent to the cathedral church and used for purposes ancillary to the use of the cathedral church, but excluding any building used wholly or mainly for residential purposes.

Commencement Information

I26 S. 26 in force at 1.9.2011 by 2011 No. 2, art. 2

27 Maintenance of records

The cathedral architect or surveyor of the fabric and the cathedral archaeologist (if any) shall each, in consultation with the architect or surveyor appointed under section 20 of the Cathedrals Measure 1999 (if a person other than the cathedral architect or surveyor of the fabric), include in the annual report required to be made to the Chapter under section 26(5) or 28(3) advice as to those works carried out in the previous year of which a permanent record should in the opinion of the cathedral architect or surveyor of the fabric or cathedral archaeologist be maintained and it shall be the duty of the Chapter—

- (a) to have regard to that advice and, pursuant thereto, to make and maintain appropriate permanent records of any such works; and
- (b) during the period of 5 years beginning with 1st January 2008 and during every subsequent period of 5 years, to make a report in writing to the fabric advisory committee of the records made under paragraph (a) and on the arrangements for maintaining those records and to send a copy of the report to the Commission.

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Commencement Information

I27 S. 27 in force at 1.9.2011 by 2011 No. 2, art. 2

28 Reports by cathedral archaeologists

- (1) It shall be the duty of the Chapter of a cathedral which has appointed a cathedral archaeologist to arrange, within the period of 2 years beginning with 1st January 2008 for the cathedral archaeologist—
- (a) to assess those matters of archaeological interest which relate to the cathedral church and its precinct, including buildings within the precinct and remains in or under the cathedral church or within its precinct, and
 - (b) in consultation within the cathedral architect or surveyor of the fabric and the architect or surveyor appointed under section 20 of the Cathedrals Measure 1999 (if a different person), to make a report in writing to the Chapter containing recommendations on how those matters should be managed, and on the compilation and maintenance of archaeological records relating to them.
- (2) A copy of the report referred to in subsection (1)(b) shall be sent to the Commission.
- (3) The cathedral archaeologist shall, by 1st January 2010 and annually thereafter, make in consultation with the persons referred to in subsection (1) a report to the Chapter containing an account of progress made in fulfilling the recommendations of the report referred to in subsection (1) and any other matters which the archaeologist considers to be relevant to the archaeological interest of the cathedral church and its precinct.

Commencement Information

I28 S. 28 in force at 1.9.2011 by 2011 No. 2, art. 2

29 Applications for listed building or scheduled monument consent

Where the Chapter of a cathedral church proposes to make any application for—

- (a) listed building consent under section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990, or
- (b) scheduled monument consent under section 2 of the Ancient Monuments and Archaeological Areas Act 1979,

in respect of any building or monument within the precinct of the cathedral church, the administrator shall send to the Commission a notice stating that representations in writing with respect to the proposed application may be sent to him or her before the end of the prescribed period.

Commencement Information

I29 S. 29 in force at 1.9.2011 by 2011 No. 2, art. 2

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30 Notices

All notices required to be given under this Measure shall be in writing and shall be in the prescribed form.

Commencement Information

I30 S. 30 in force at 1.9.2011 by 2011 No. 2, art. 2

31 Saving

Nothing in this Measure shall dispense with any consent or approval which is required by or under the constitution and statutes of a cathedral church for anything done by the Chapter of that cathedral church.

Commencement Information

I31 S. 31 in force at 1.9.2011 by 2011 No. 2, art. 2

32 Interpretation

(1) In this Measure, unless the context otherwise requires—

“administrator of the cathedral” means the person, by whatever name called, appointed under section 9(1)(e) of the Cathedrals Measure 1999;

“archaeological remains” means the remains of any building, work or artefact, including any trace or sign of the previous existence of the building, work or artefact in question;

“architect” means a person registered under the Architects Act 1997 (c. 22);

“building” includes any monument or other structure or erection and any part of a building as so defined and “fabric” shall be construed accordingly;

“cathedral archaeologist” means the person appointed under section 23(2), by whatever name called, being a person who possesses such qualifications and expertise in archaeological matters as the Commission may recognise as appropriate;

“cathedral architect or surveyor of the fabric” means any architect or surveyor appointed by virtue of section 9(1)(f) of the Cathedrals Measure 1999 by whatever name called;

“cathedral church” means any cathedral church in the provinces of Canterbury and York, except—

(a) the Cathedral Church of Christ in Oxford, and

(b) the cathedral church in the diocese of Sodor and Man;

“Chapter” means the body of that name established by section 2 of the Cathedrals Measure 1999;

“chartered building surveyor” means a member of the Royal Institution of Chartered Surveyors qualified as a chartered building surveyor;

“corporate body” means the body established under section 9(1)(a) of the Cathedrals Measure 1999;

“English Heritage” means the Historic Buildings and Monuments Commission for England, known as English Heritage;

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“Liturgical Commission” means the body so named at the passing of this Measure or any body subsequently exercising the functions of that body under a different name or with a different constitution;

“local planning authority” in relation to any area means the body exercising the functions of a local planning authority under Part I of the Town and Country Planning Act 1990 in that area;

“national amenity societies” means the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings, the Twentieth Century Society and the Victorian Society and such other body as may from time to time be designated by the Dean of the Arches and Auditor as a national amenity society for the purposes of this Measure;

“precinct” in relation to a cathedral church means the precinct for the time being indicated on the plan required for that cathedral church by section 25;

“prescribed” means prescribed by rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991;

“special visitation” means a special visitation under section 16.

- (2) For the purposes of this Measure any object or structure permanently situated in or affixed to a cathedral church or any building within the precinct of a cathedral church shall be treated as part of that cathedral church or building or of its fabric, as the case may be.
- (3) For the purposes of this Measure a building shall be treated as being used for ecclesiastical purposes if it would be so used but for any works proposed to be carried out in relation to it.

Commencement Information

I32 [S. 32](#) in force at 1.9.2011 by [2011 No. 2, art. 2](#)

33 Repeals

The enactments mentioned in Schedule 3 are repealed to the extent specified in the second column of that Schedule.

Commencement Information

I33 [S. 33](#) in force at 1.9.2011 by [2011 No. 2, art. 2](#)

34 Short title and commencement

- (1) This Measure may be cited as the Care of Cathedrals Measure 2011.
- (2) This Measure shall come into force on such day as the Archbishops of Canterbury and York may jointly appoint, and different days may be appointed for different provisions.

Commencement Information

I34 [S. 34](#) in force at 1.9.2011 by [2011 No. 2, art. 2](#)

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