



Mission and Pastoral Measure 2011

2011 No. 3

PART 5

CONTENTS AND EFFECT OF PASTORAL SCHEMES AND ORDERS

Churches, churchyards and parsonage houses

44 Use of certain churchyards and burial grounds

- (1) Subject to the following provisions of this section, a pastoral scheme may provide for the appropriation of the whole or any part of—
- (a) a churchyard or other land annexed or belonging to a church or to a parish church cathedral within the meaning of the Cathedrals Measure 1963 (1963 No. 2), or
 - (b) any burial ground vested in the incumbent of the benefice but not annexed or belonging to a church, or
 - (c) any other burial ground which is subject to the jurisdiction of the bishop of any diocese,

to such use or uses as may be specified or generally described in the scheme, and the scheme may provide for the disposal of any such property for any such use or uses or without limitation of use.

- (2) Subsection (1) shall not apply to a churchyard or other land annexed or belonging to a church to which a declaration of closure for regular public worship relates unless the scheme by which provision was made for the use, the care and maintenance, the vesting in the diocesan board of finance or the demolition of the church contained no provision for dealing with the land which is to be the subject of the proposed scheme.
- (3) In the case of a churchyard or other land annexed or belonging to a church or a burial ground adjacent to a church, the pastoral scheme shall make such provision as appears to the bishop and the Commissioners to be desirable for safeguarding the use and amenities of the church or to be necessary for preserving a right of access to any grave in that land or burial ground.

*Changes to legislation: There are currently no known outstanding effects for the
Mission and Pastoral Measure 2011, Section 44. (See end of Document for details)*

- (4) A scheme providing for the matters referred to in this section shall have effect notwithstanding section 3 of the Disused Burial Grounds Act 1884 (47 & 48 Vict. c. 72) (which prohibits the erection of buildings on disused burial grounds), if one or other of the following conditions is satisfied, namely—
- (a) that no person has been buried in any of the land to which the provisions apply during the period of fifty years immediately before the making of the scheme; or
 - (b) that no relative or personal representative of any deceased person buried in the land during that period has objected to the draft scheme, or all such objections have been withdrawn;
- and that section shall otherwise apply.
- (5) Any scheme providing for the matters referred to in this section may also make provision for the vesting of the property and for applying in relation thereto, with such modifications as may be specified in the scheme, any of the provisions of Part 6 relating to the appropriation, disposal and vesting of property, rights of way and other easements, the removal of the legal effects of consecration and the imposing of covenants; and the provisions of Part 6 relating to the disposal of human remains shall apply to the property.
- (6) In this section “burial ground” means any land set apart and consecrated for the purpose of burials whether or not burials have taken place in the land.
- [^{F1}(7) In this section “relative”, in relation to a person, means—
- (a) a spouse or civil partner, parent or grandparent or child or grandchild of the person, or
 - (b) a person who is, or is the child of, a brother, sister, uncle or aunt of the person.
- (8) The reference in subsection (7)(a) to a person's spouse includes a reference to a spouse of the same sex as that person.]

Textual Amendments

- F1** S. 44(7)(8) inserted (1.9.2020) by [Church of England \(Miscellaneous Provisions\) Measure 2020 \(No. 1\)](#), **ss. 6(9)**, 16(3); S.I. 2020/835, art. 2

Commencement Information

- II** S. 44 in force at 1.7.2012 by [S.I. 2012/1](#), **art. 2**

Changes to legislation:

There are currently no known outstanding effects for the Mission and Pastoral Measure 2011, Section 44.