



Mission and Pastoral Measure 2011

2011 No. 3

PART 6

BUILDINGS CLOSED FOR REGULAR PUBLIC WORSHIP

Pastoral (church buildings disposal) schemes

68 Churches not to be closed or disposed of otherwise than under this Measure

- (1) It shall not be lawful to make any order or give any direction for closing a church on the ground that it is no longer required for use as a church, and the only procedure for closing a church on that ground shall be by way of a declaration of closure for regular public worship or the exercise of powers under section 67.
- (2) Subject to subsections (3) and (4), it shall not be lawful to sell, lease or otherwise dispose of any church or part of a church or the site or part of the site of any church or any consecrated land belonging or annexed to a church except in pursuance of powers under this Part or section 44.
- (3) Without prejudice to subsection (15)(a), on an application by the incumbent of the benefice comprising or including the parish in which the church is situated or, where the benefice is vacant, the bishop in the name and on behalf of the incumbent in the corporate capacity of the incumbent, the court may grant a faculty for a lease to be granted by the incumbent or, as the case may be, the bishop, of part of a church, provided that the court shall ensure that the premises remaining unlet, together with the premises let, under any lease or leases granted under this subsection, are, taken as a whole, used primarily as a place of worship.
- (4) On an application by any person referred to in subsection (3) the court may, whether or not it grants a faculty under that subsection, grant a faculty for the lease of any land belonging to or annexed to a church.
- (5) The parochial church council for the parish in which the church or land is situated shall be a party to any lease granted under subsection (3) or (4) and, without prejudice to the rights and obligations of the lessor, shall have the same rights as the lessor to

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enforce any term of the lease which may be binding on the lessee, including any rights to forfeit the lease or to distrain on the property of the lessee.

- (6) Subject to any directions of the court, any rent or other payment payable under any lease granted under subsection (3) or (4) shall be paid to the parochial church council.
- (7) Subject to subsections (6) and (8), any such lease shall be for such period, and may contain such terms, as the court may determine and the lease or any terms contained therein may be varied at any time by the court on application by any party to the lease or otherwise as authorised by the court.
- (8) Any such lease shall be deemed to contain the following terms—
 - (a) in the case of a lease of part of a church granted under subsection (3), the premises which are the subject of the lease shall not be used for purposes which are, or in a way which is, inconsistent with the use specified in that subsection, and
 - (b) in the case of a lease granted under subsection (3) or (4), no use shall be permitted for residential purposes except by a person who, as an employee of the lessor or otherwise, is required, as a condition of the employment or contract, to reside in the premises or part thereof,
 and the lease shall be deemed to contain a covenant on the part of the lessee to perform those terms.
- (9) Where any lease is granted under subsection (3) or (4)—
 - (a) in the case of a lease of premises to trustees to be held on trust to be used for the purposes of a place of worship, the trustees shall not be entitled to exercise the right conferred by the Places of Worship (Enfranchisement) Act 1920 (10 & 11 Geo. 5 c. 56) to enlarge the leasehold interest by acquiring the freehold;
 - (b) in the case of a lease consisting of a tenancy of premises occupied or to be occupied wholly or partly for the purposes of a business, the tenancy shall not be subject to any provision of Part II of the Landlord and Tenant Act 1954 (2 & 3 Eliz 2 c. 56) under which the lease is continued until determined, or under which the tenant is entitled to apply to the court for the grant of a new tenancy, in accordance with the provisions of that Part; and
 - (c) in the case of a lease of land consisting of a tenancy which would, but for this subsection, be a farm business tenancy to which the Agricultural Tenancies Act 1995 (c. 8) applied, that Act shall not apply to the tenancy and, accordingly, the tenant shall not be entitled to exercise any of the rights conferred by Part I, II or III of that Act.

^{F1}(10)

- (11) Where a lease has been granted under subsection (3) or (4) and, at any time, the benefice is vacant, the bishop in the name and on behalf of the incumbent in the incumbent's corporate capacity may exercise the power conferred on the lessor by subsection (7) to apply to the court for a variation of the lease or any terms therein and the lease shall be construed as if any reference in it to the incumbent were a reference to the bishop acting in the name and on behalf of the incumbent in the incumbent's corporate capacity.
- (12) Any question relating to the interpretation or enforcement of any term of any lease granted under subsection (3) or (4) shall be determined by the court and [^{F2}section 26 of the 2018 Measure (costs)] shall apply in relation to proceedings under subsection (7)

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- and this subsection as it applies to the [^{F3}proceedings before a court exercising jurisdiction under that Measure] .
- (13) [^{F4}Section 60(2)(a) and (3) to (8) of the 2018 Measure (parties to proceedings: role of archdeacon)] shall apply to proceedings under subsections (3), (4), (7) and (12) as they apply to other proceedings for a faculty.
- (14) In this section, except subsection (9)(b), “the court” means the consistory court of the diocese in which the building is situated or, in the case of the diocese of Canterbury, the commissary court of that diocese and [^{F5}section 74 of the 2018 Measure (power of archdeacon to exercise faculty jurisdiction)] shall not apply to the jurisdiction of the courts conferred by the foregoing provisions of this section.
- (15) The foregoing provisions of this section shall not—
- (a) prevent the grant of a faculty authorising a suitable use of part of a church or the grant of any faculty in respect of any such land as aforesaid; or
 - (b) affect any powers under any Act of Parliament;
 - (c) affect the power of the bishop of a diocese under [^{F6}section 92 of the 2018 Measure] to make an order directing that a building or land shall not be subject to the legal effects of consecration.
- (16) Where any church other than a church which has been declared closed for regular public worship is purchased compulsorily or is purchased by agreement under an enactment conferring powers of compulsory purchase, then for the purpose of any enactment applying to the disposal of sums paid to the Commissioners in respect of the purchase of the church or any land annexed or belonging thereto, or in respect of compensation for damage to other ecclesiastical property arising in connection with the purchase, the provisions of this Part relating to the disposal of the proceeds of sale of a building closed for regular public worship or any land annexed or belonging to a building closed for regular public worship shall be deemed not to be applicable.
- [^{F7}(17) In this section, “the 2018 Measure” means the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.]

Textual Amendments

- F1** S. 68(10) repealed (1.7.2018) by Statute Law (Repeals) Measure 2018 (No. 1), s. 2(3), **Sch. Pt. 5**; S.I. 2018/718, art. 2
- F2** Words in s. 68(12) substituted (1.9.2018) by Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (No. 3), s. 99(2), **Sch. 3 para. 19(2)(a)** (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2
- F3** Words in s. 68(12) substituted (1.9.2018) by Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (No. 3), s. 99(2), **Sch. 3 para. 19(2)(b)** (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2
- F4** Words in s. 68(13) substituted (1.9.2018) by Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (No. 3), s. 99(2), **Sch. 3 para. 19(3)** (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2
- F5** Words in s. 68(14) substituted (1.9.2018) by Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (No. 3), s. 99(2), **Sch. 3 para. 19(4)** (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2
- F6** Words in s. 68(15)(c) substituted (1.9.2018) by Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (No. 3), s. 99(2), **Sch. 3 para. 19(5)** (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2
- F7** S. 68(17) inserted (1.9.2018) by Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (No. 3), s. 99(2), **Sch. 3 para. 19(6)** (with Sch. 4 Pt. 1); S.I. 2018/720, art. 2

Commencement Information

- I1** S. 68 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 68.