



# Cathedrals Measure 2021

2021 No. 2

A Measure passed by the General Synod of the Church of England to make provision about the governance, management, property and financial affairs of cathedrals. [29th April 2021]

## *Ecclesiastical purpose*

### **1 Duty to have due regard to cathedral's ecclesiastical purpose**

A person on whom a function is conferred by or under this Measure must, in exercising that function, have due regard to—

- (a) the fact that the cathedral is the seat of the bishop and a centre of worship and mission, and
- (b) the importance of each cathedral's role in providing a focus for the life and work of the Church of England in the diocese.

## *Bodies*

### **2 The Chapter of the cathedral**

- (1) For each cathedral, there is to continue to be a body established by the constitution called the Chapter.
- (2) For each cathedral, the body corporate established by virtue of section 9(1)(a) of the Cathedrals Measure 1999 is to continue to exist and is to consist only of the Chapter.
- (3) The body known as the Council for each cathedral and established in the form provided for under sections 2 and 3 of the Cathedrals Measure 1999 is to cease to exist.
- (4) But subsection (3) does not prevent a body established under section 18 of this Measure from being referred to as the council, or as a council, of the cathedral (albeit that a body so established does not form part of the body corporate of the cathedral).
- (5) Schedule 1 (which makes further provision about the Chapter of a cathedral) has effect.

### 3 The College of Canons

- (1) For each cathedral, there is to continue to be a body established by the constitution called the College of Canons (but, by virtue of section 2(2), neither that body nor its members form part of the body corporate for the cathedral).
- (2) The members of the College of Canons are—
  - (a) the dean,
  - (b) every suffragan bishop of the diocese,
  - (c) every canon of the cathedral, and
  - (d) every archdeacon of the diocese.
- (3) The functions conferred by the Appointment of Bishops Act 1533 on the body referred to in that Act as the dean and chapter of a cathedral are exercisable by the College of Canons of the cathedral; and that Act is to be read accordingly.
- (4) The College of Canons has such other functions as may be conferred on it by the constitution or statutes.
- (5) In subsection (2)(c), “canon” includes a lay canon and a non-residentiary canon but not a minor canon; and “non-residentiary canon” includes a prebendary who is not a residentiary canon.
- (6) Schedule 2 (which modifies this section in relation to the diocese of Leeds) has effect.

*Governing instruments, etc.*

### 4 Constitution: objects

- (1) The constitution must specify the following as the only objects of the Chapter of a cathedral—
  - (a) to advance the Christian religion in accordance with the faith and practice of the Church of England, in particular by furthering the mission of the Church of England;
  - (b) to care for and conserve the fabric and structure of the cathedral church building;
  - (c) to advance any other charitable purposes which are ancillary to the furtherance of the purpose referred to in paragraph (a) or (b).
- (2) In subsection (1)—
 

“the mission of the Church of England” means the whole mission of the Church of England, pastoral, evangelistic, social and ecumenical;

“cathedral church building” means, in the case of each cathedral, the buildings within the ecclesiastical exemption for that cathedral;

“charitable purposes” means purposes within section 2(1) of the Charities Act 2011.
- (3) In furthering the objects set out in subsection (1), the Chapter must act for the public benefit within the meaning of section 4(3) of the Charities Act 2011.
- (4) A reference in this Measure to the constitution in relation to a cathedral is—

- (a) in relation to times before the commencement under section 53(3) of certain provisions of this Measure in relation to that cathedral, a reference to the constitution of the cathedral, and
- (b) in relation to times after that commencement, a reference to the constitution of the Chapter.

## **5 Constitution: general provision**

- (1) The constitution must—
  - (a) provide for the appointment of canons in Holy Orders, subject to section 9(4);
  - (b) provide for the appointment of lay canons;
  - (c) make provision as to the duration of the term of office, and as to the number of consecutive terms of office, which a non-executive member of the Chapter may serve;
  - (d) provide for the appointment of persons to undertake administration in the cathedral through the carrying out of the role of a chief operating officer and the role of a chief finance officer;
  - (e) provide for the appointment of an architect or surveyor of the fabric of the cathedral;
  - (f) provide for the appointment of an auditor for the Chapter;
  - (g) provide for the appointment of a person having the function of supervising music in the cathedral;
  - (h) provide for the establishment of a committee known as “the Nominations Committee” (see section 15);
  - (i) provide (subject to sub-paragraph (j)) for the establishment of a committee known as “the Finance Committee” and of a committee known as “the Audit and Risk Committee” (see section 16);
  - (j) provide that, if the Chapter considers that establishment of the committees referred to in sub-paragraph (i) is not practicable, a committee known as the “Finance Committee” must be established and the Chapter must make whatever arrangements are necessary to ensure appropriate governance of the cathedral (including management of risk) and appropriate oversight of its internal and external audit, given the size and complexity of its financial affairs and the nature of its activities.
- (2) The same person may be appointed to carry out each of the roles referred to in subsection (1)(d), if each role is to be carried out on a part-time basis.
- (3) A person appointed to either of the roles referred to in subsection (1)(d) is referred to in this Measure as a “chief officer”; but the Chapter may confer on a person so appointed a job title different from that given in subsection (1)(d).
- (4) The constitution must provide that a person may not be appointed by virtue of subsection (1)(e) unless the person has such qualifications and expertise in matters relating to the conservation of historic buildings and other matters as the Chapter considers appropriate.
- (5) Before making a decision about the qualifications and expertise required for the purposes of subsection (4), the Chapter must consult—
  - (a) the Cathedrals Fabric Commission for England, and
  - (b) such other persons as the Chapter considers appropriate.

- (6) In making arrangements of the kind referred to in subsection (1)(j), the Chapter must have due regard to any guidance issued by the Church Commissioners on the financial affairs of cathedrals.
- (7) Before issuing guidance of the kind referred to in subsection (6), the Church Commissioners must consult such bodies as appear to them to represent cathedrals in relation to their financial affairs.
- (8) The constitution must include provision to exclude the power conferred by section 292B of the Charities Act 2011 (social investment power).
- (9) Where the constitution provided, immediately before the commencement of this section, for the appointment of the dean to be made by Her Majesty, the constitution must continue so to provide.
- (10) Where, in the case of a cathedral which is or part of which is a parish church, the constitution provided, immediately before the commencement of this section, for the incumbent of the benefice which comprises the parish to be the dean, the constitution must continue so to provide.

## **6 Constitution: provision for community rolls**

- (1) In the case of a cathedral which is not a parish church, the constitution must require the formation and maintenance of a roll which contains the name of each person—
  - (a) who is baptised,
  - (b) who is aged 16 or over,
  - (c) who has made one of the following two declarations, and
  - (d) whose application for enrolment for the purposes of this subsection has been granted.
- (2) The first declaration is that the person—
  - (a) is a member of the Church of England or of a Church in communion with it, and
  - (b) has habitually attended public worship at the cathedral during the preceding six months.
- (3) The second declaration is that the person—
  - (a) is a member in good standing of a Church which is not in communion with the Church of England but subscribes to the doctrine of the Holy Trinity,
  - (b) is also a member of the Church of England, and
  - (c) has habitually attended public worship at the cathedral during the preceding six months.
- (4) In the case of a cathedral which is not a parish church, the constitution must permit the formation and maintenance of a roll which contains the name of each person—
  - (a) who is not eligible for inclusion on the roll maintained for the purposes of subsection (1), but
  - (b) who is a member of the cathedral community, and
  - (c) whose application for enrolment for the purposes of this subsection has been granted.

- (5) In the case of a cathedral which is, or part of which is, a parish church, the constitution must permit the formation and maintenance of a roll which contains the name of each person—
- (a) who is not eligible for inclusion on the church electoral roll of the parish, but
  - (b) who is a member of the cathedral community, and
  - (c) whose application for enrolment for the purposes of this subsection has been granted.

## **7 Statutes**

- (1) The statutes must make provision for the good government of the cathedral; and the provision which may be so made includes in particular—
- (a) provision for the creation, continuance, abolition, suspension or termination of suspension of a dignity, office or body in the cathedral and for the title by which a dignity or office is to be known;
  - (b) provision that the power of presentation or nomination to a benefice in the patronage of the cathedral is exercisable by the Chapter or a patronage committee of the Chapter;
  - (c) if the whole of the cathedral is a parish church, provision that only part of the cathedral is to be the parish church;
  - (d) if part of the cathedral is a parish church, provision that the whole cathedral or another part of it is to be the parish church.
- (2) The statutes must include provision as to the functions of the chief officers.
- (3) The statutes must include provision for the establishment of a group concerned with the management of the cathedral (see section 19).
- (4) The statutes must include provision for the fostering of the corporate and spiritual life of the Chapter and its members.
- (5) The statutes may include consequential, supplementary, incidental or transitional provision.
- (6) Provision made in the statutes must be consistent with this Measure and with the constitution.
- (7) A reference in this Measure to the statutes in relation to a cathedral is—
- (a) in relation to times before the commencement under section 53(3) of certain provisions of this Measure in relation to that cathedral, a reference to the statutes of the cathedral, and
  - (b) in relation to times after that commencement, a reference to the statutes of the Chapter.

## **8 Application of the Charities Act 2011**

- (1) In section 10 of the Charities Act 2011 (ecclesiastical corporations etc.), in subsection (3), after “spiritual purposes” insert “but does not include the Chapter of a cathedral to which the Cathedrals Measure 2021 applies”.
- (2) In each of sections 84(3)(b), 84B(3) and 85(3)(b) of that Act (powers of Charity Commission to give directions), after “any Act” insert “or Measure”.

(3) In section 84 of that Act, at the end insert—

“(6) In this section and sections 84B and 85, “Measure” means a Measure of the Church Assembly or of the General Synod of the Church of England.”

- (4) The members of the Chapter of each cathedral have the general control and management of the administration of the Chapter and are, accordingly, the charity trustees of the Chapter for the purposes of the Charities Act 2011.
- (5) The Chapter of each cathedral is subject to the control of the High Court in the exercise of the Court’s jurisdiction with respect to charities.

### *Roles and responsibilities*

## **9 The bishop**

- (1) The bishop continues to have the principal seat and dignity in the cathedral.
- (2) The bishop may, after consultation with the Chapter and subject to provision in the statutes, officiate in the cathedral and use it in the bishop’s work of teaching and mission, for ordinations and synods and for other diocesan occasions and purposes.
- (3) The bishop must attend the special meeting of the Chapter held under section 11(2).
- (4) It is for the bishop, with the approval of the dean, to appoint each residentiary canon who is not appointed by the Crown.
- (5) The bishop may seek the advice of the Chapter on any matter.
- (6) The bishop may commission a review of such aspects of the cathedral’s financial affairs, governance, management, operations or mission as the bishop considers necessary or appropriate.
- (7) In commissioning a review under subsection (6), the bishop must have due regard to any guidance issued by the Church Commissioners in relation to such reviews; and the arrangements for appointing persons to carry out a review under that subsection must require those persons to have due regard to any such guidance.
- (8) Where a review under subsection (6) is being carried out, the Chapter of the cathedral concerned must co-operate with the persons carrying it out.
- (9) The Chapter must, in exercising its functions, have due regard to the conclusions reached on a review under subsection (6) and any recommendations made in the review.
- (10) Where the Charity Commission makes a decision, direction or order under the Charities Act 2011 which affects a cathedral, the bishop is to be treated for the purposes of Schedule 6 to that Act (appeals and applications to Charity Tribunal) as a person who is or may be affected by the decision, direction or order.

## **10 The Visitor**

- (1) The constitution must continue to provide for the bishop to be the Visitor of the cathedral.

- (2) It is for the bishop as Visitor to hear and determine any question as to the construction of the constitution or statutes.
- (3) The bishop may hold a visitation of the cathedral—
  - (a) when the bishop considers it necessary or desirable to do so, or
  - (b) when requested to do so by the Chapter.
- (4) In the course of a visitation, the bishop may give such directions to the Chapter, the holder of an office in the cathedral or a person employed by the Chapter or engaged to provide services in connection with the cathedral as will, in the opinion of the bishop, better serve the due observance of the constitution and statutes.
- (5) A person on whom a function is conferred by or under this Measure must, in exercising that function, act in accordance with a determination made under subsection (2) or a direction given under subsection (4).
- (6) The bishop must, in the exercise of functions as Visitor, have due regard to any guidance issued by the Church Commissioners in relation to the Visitor's functions.
- (7) This section does not affect the powers that the bishop has generally as Visitor.

## **11 The Chapter**

- (1) The Chapter must direct and oversee the administration of the affairs of the cathedral; and in performing that duty the Chapter must in particular—
  - (a) order the worship of the cathedral and promote its mission;
  - (b) formulate, after consultation with the bishop, proposals relating to the general direction and mission of the cathedral;
  - (c) prepare an annual budget for the Chapter;
  - (d) prepare an annual report for the Chapter and annual accounts for audit and subsequent approval;
  - (e) keep under review the constitution and statutes;
  - (f) manage the property vested in the Chapter and the income accruing from it and, in particular, ensure that necessary repairs and maintenance in respect of the cathedral and its contents and other buildings and monuments are carried out.
- (2) The Chapter must each year hold a special meeting at which—
  - (a) the Chapter must consult the bishop on the general direction and mission of the cathedral, and
  - (b) the bishop may, in reliance on section 9(5), seek the advice of the Chapter on any particular matter.
- (3) Before deciding who to invite to a special meeting under subsection (2) (apart from the members of the Chapter and the bishop), the Chapter must consult the bishop.

## **12 The dean**

- (1) The dean of a cathedral continues to be its principal dignitary, next after the bishop.
- (2) The dean, in that capacity, must govern and direct on behalf of the Chapter the life and work of the cathedral; and in performing that duty the dean must in particular—
  - (a) ensure that Divine Service is duly performed in the cathedral;

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*Status: This is the original version (as it was originally enacted).*

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- (b) ensure that the constitution and statutes are faithfully observed;
  - (c) oversee the work undertaken by the clergy and staff of the cathedral in relation to the cathedral;
  - (d) maintain good order and proper reverence in the cathedral;
  - (e) secure the pastoral care of all members of the cathedral community;
  - (f) provide leadership on matters relating to the safeguarding of any children or vulnerable adults who work, volunteer or worship in the cathedral or who visit the cathedral (with “child” and “vulnerable adult” each having the meaning given in section 39(1));
  - (g) take all decisions necessary to deal with an emergency affecting the cathedral, pending consideration of the matter by the Chapter.
- (3) None of the following may be done without the consent of the dean—
- (a) an alteration of the ordering of services in the cathedral;
  - (b) the settlement of the Chapter’s budget;
  - (c) the implementation of a decision taken by the Chapter in the dean’s absence.
- (4) In the case of a decision taken by the Chapter on a matter other than one mentioned in subsection (3)(a) or (b), the dean is to be taken as having consented for the purposes of subsection (3)(c) after the expiry of one month beginning with the day after that on which the decision was taken.
- (5) But subsection (4) does not apply if, during the one-month period referred to in that subsection, the dean asks the Chapter to reconsider the decision at its next meeting; and the decision is to be taken by a majority vote of those present and voting at the meeting (as to which, see paragraph 6 of Schedule 1).
- (6) The dean is, in respect of his or her functions relating to the cathedral, accountable to the Chapter in accordance with arrangements made by the Chapter.
- (7) The clergy of the cathedral are, in respect of their functions relating to the cathedral, accountable to the Chapter through the dean in accordance with arrangements made by the Chapter.
- (8) The dean, the clergy of the cathedral and the Chapter must each have due regard to any guidance issued by the Church Commissioners on accountability in relation to cathedrals.
- (9) Before issuing guidance of the kind referred to in subsection (8), the Church Commissioners must consult such bodies as appear to them to represent cathedrals.
- (10) The references in subsections (6) and (7) to the functions a person has in relation to the cathedral include, in the case of the dean or a residentiary canon, a reference to the functions he or she has under the Canons.
- (11) Subsections (6) and (7) do not apply to functions exercisable as a charity trustee.
- (12) A reference in this section to the clergy of the cathedral is a reference to each residentiary canon or other clerk in Holy Orders who carries out cathedral duties.

### **13 Interim dean**

- (1) If the office of dean of a cathedral is vacant or the dean is unable to discharge functions because of illness, absence or any other reason, the bishop must appoint a residentiary



canon, or another clerk in Holy Orders, who is qualified to hold the office of dean to carry out the functions concerned during the period concerned.

- (2) An appointment under subsection (1) is to be on such terms and for such period as the bishop may determine; and, accordingly, in section 1 of the Ecclesiastical Offices (Terms of Service) Measure 2009 (common tenure), in subsection (1)(d), after “office in a cathedral” insert “other than the office under section 13(1) of the Cathedrals Measure 2021 (interim dean)”.
- (3) Before making an appointment under subsection (1), the bishop must consult the Chapter.
- (4) An appointment under subsection (1) must be made before the end of 30 days beginning with the day on which the vacancy arises or (as the case may be) the dean becomes unable to discharge the functions concerned.
- (5) Where a person is appointed under this section, the references in this Measure to the dean are to be read as references to the person so appointed.
- (6) Any question arising as to whether an appointment under this section is justified is to be determined by the archbishop of the province; and the archbishop’s determination is final.
- (7) A reference in this section to being qualified to hold the office of dean is a reference to satisfying the requirements imposed by a Measure, Act of Parliament or Canon for appointment to the office of dean.
- (8) Where a dean is suspended, removed or disqualified from office, the dean is, for the duration of the period of the suspension or from the time when the removal or disqualification takes effect, to be treated for the purposes of this section as unable to discharge the dean’s functions.

## **14 Residentiary canons**

- (1) In the case of each cathedral, at least two full-time equivalent residentiary canons must continue to be engaged exclusively on cathedral duties.
- (2) But the archbishop of the province and the Church Commissioners acting jointly may in special circumstances direct that a residentiary canon who is normally engaged exclusively on cathedral duties is, for the period specified in the direction, to be treated as so engaged for the purposes of this section, even though the canon is performing duties other than cathedral duties.
- (3) If a question arises as to whether a person is exclusively engaged on cathedral duties, the question is to be decided by the Church Commissioners, after consultation with the Visitor and the Chapter.
- (4) A person who is dissatisfied with a determination under subsection (3) may appeal against the determination to the archbishop of the province; and the archbishop’s decision on the appeal is final.
- (5) Where there is a vacancy in the see of the bishop who is the Visitor of the cathedral, the reference to the Visitor in subsection (3) is to be ignored.
- (6) In the application of this section to each cathedral of the diocese of Leeds, subsection (1) has effect as if for “two full-time equivalent residentiary canons” there were substituted “one full-time equivalent residentiary canon”; but, in the case of each

of those cathedrals, this subsection applies to that cathedral only if the Bishop of Leeds has given consent for it to apply to it.

## **15 Nominations Committee**

- (1) It is for the Chapter to appoint the members of the Nominations Committee (the establishment of which is provided for in the constitution by virtue of section 5(1)(h)).
- (2) The chair of the Committee need not be a member of the Chapter but, if he or she is a member of the Chapter, must not be an executive member.
- (3) At least one member of the Committee must be a non-executive member of the Chapter (and that may be the person who is the chair of the Committee).
- (4) The membership of the Committee may include persons who are not members of the Chapter.
- (5) The Committee has the function of advising the Chapter on—
  - (a) the recruitment of non-executive members,
  - (b) the recruitment of members of committees of the Chapter, and
  - (c) the training needs of members of the Chapter.
- (6) The Committee also has the function of—
  - (a) keeping under review the skills, knowledge and experience of, and the diversity among, members of the Chapter, and
  - (b) where, in light of a review under paragraph (a), the Committee identifies areas where improvements are required, making recommendations to the Chapter on how to make those improvements.
- (7) Subject to the preceding provisions of this section, the statutes must make provision as to the composition, functions and proceedings of the Committee.
- (8) The Chapter may set terms of reference for the Committee; and the terms of reference may include provision which supplements the provision made by the constitution or statutes.

## **16 Finance Committee and Audit and Risk Committee**

- (1) It is for the Chapter to appoint the members of the Finance Committee and (if there is one) the members of the Audit and Risk Committee (the establishment of which is provided for in the constitution by virtue of section 5(1)(i)).
- (2) The chair of the Finance Committee must be a non-executive member of the Chapter who has recent and relevant financial experience.
- (3) The dean must not be a member of the Finance Committee or (if there is one) of the Audit and Risk Committee but is entitled to attend any meeting that either committee holds; and, at any meeting which the dean attends, he or she may speak but may not vote.
- (4) The chair of the Audit and Risk Committee (if there is one) must not be a member of the Chapter and must have recent and relevant financial experience.
- (5) The membership of the Audit and Risk Committee (if there is one) must include at least one non-executive member of the Chapter.

- (6) The membership of the Finance Committee and (if there is one) the membership of the Audit and Risk Committee may each include persons who are not members of the Chapter.
- (7) The Finance Committee and (if there is one) the Audit and Risk Committee must each keep under review the activities and management of the cathedral in relation to such matters as the Chapter may specify in terms of reference for the committee.
- (8) In providing terms of reference for the purposes of this section, the Chapter must have due regard to any guidance issued by the Church Commissioners on the responsibilities of a Finance Committee and of an Audit and Risk Committee.
- (9) Before issuing guidance of the kind referred to in subsection (8), the Church Commissioners must consult such bodies as appear to them to represent cathedrals in relation to their financial affairs.
- (10) Subject to the preceding provisions of this section, the statutes must make provision as to the composition, functions and proceedings of the Finance Committee and (if there is one) of the Audit and Risk Committee.
- (11) The terms of reference set by the Chapter for a Finance Committee or (if there is one) an Audit and Risk Committee may include provision which supplements the provision made by the constitution or statutes.

## **17 Other committees**

- (1) The constitution may include provision for the establishment of any committees or sub-committees of the Chapter of a cathedral.
- (2) The constitution must provide that any committee or sub-committee of the Chapter of a cathedral established by virtue of subsection (1) may include persons who are not members of the Chapter.
- (3) The statutes must include provision as to the chairing of each committee or sub-committee established by virtue of subsection (1) (including provision as to whether the chair must be a member of the Chapter).
- (4) The statutes must include provision for each committee or sub-committee established by virtue of subsection (1) to report its proceedings to the Chapter.
- (5) Subject to the preceding provisions of this section, the statutes must include provision as to the composition and proceedings of committees or sub-committees of the Chapter of a cathedral established by virtue of subsection (1).
- (6) The Chapter must set terms of reference for each committee or sub-committee established by virtue of subsection (1); and the terms of reference—
  - (a) must include provision as to the functions of the committee or sub-committee;
  - (b) may include provision which supplements the provision made by the constitution or statutes.

## **18 Advisory bodies**

- (1) The constitution may include provision for the establishment of one or more advisory bodies, including bodies the purpose of which would be to enable engagement with persons in the local area who have an interest in the affairs of the cathedral.

- (2) A body established under this section is not a committee of the Chapter.
- (3) The statutes may include provision as to the composition, functions or proceedings of a body established under this section.
- (4) The Chapter may set terms of reference for a body established under this section; and the terms of reference may include provision which supplements the provision made by the constitution or statutes.
- (5) Subsections (1) to (4) are not to be read as limiting the provision which may be made under section 7(1) for the good government of a cathedral.

## **19 Senior management group**

- (1) The members of the group concerned with the management of a cathedral (the establishment of which is provided for in the statutes by virtue of section 7(3)), must include—
  - (a) the dean,
  - (b) each residentiary canon with responsibility for a department of the cathedral or for part of its operations,
  - (c) the chief officers, and
  - (d) such other members of staff (whether lay or clergy) as the Chapter considers appropriate.
- (2) The statutes must make provision as to—
  - (a) the functions and proceedings of the group, and
  - (b) the accountability of the group to the Chapter.

### *Property*

## **20 Property held by Chapter as trustee**

- (1) In the case of each cathedral, neither the cathedral church building nor any outstanding inventory object may be—
  - (a) charged with any debts or liabilities of the Chapter, or
  - (b) alienated.
- (2) No value is to be given on the Chapter's balance sheet for the cathedral church building or any outstanding inventory object.
- (3) If the Chapter of a cathedral ceases to exist, the trusteeship of the cathedral church building and of any outstanding inventory object is transferred to the diocesan board of finance; it cannot otherwise be transferred from the Chapter.
- (4) If the trusteeship referred to in subsection (3) has already been transferred under that subsection, the diocesan board of finance or any subsequent transferee may not transfer the trusteeship without having obtained the consent of the bishop of the diocese.
- (5) If there is a transfer under subsection (3) or (4), the new trustee holds the cathedral church building and the outstanding inventory objects on the trusts on which they were held immediately before the transfer took place (and for no other purpose).
- (6) "Outstanding inventory object", in relation to a cathedral, means an object which—

- (a) is included in the inventory compiled and maintained for the cathedral for the purposes of section 24(1)(a) of the Care of Cathedrals Measure 2011, and
- (b) is designated in that inventory as outstanding.

## **21 Acquisition of land**

- (1) The Chapter of a cathedral may not acquire land unless it has obtained the consent of the Church Commissioners.
- (2) Consent under this section is not required for the acquisition of land by gift.
- (3) The Chapter of a cathedral may disclaim land which it would otherwise acquire by gift, but only if it has obtained the consent of the Church Commissioners.
- (4) The Church Commissioners may by order except from subsection (1)—
  - (a) transactions relating to land forming part of an estate specified in the order;
  - (b) transactions of a class, or relating to property of a class, specified in the order.
- (5) A statement in writing by the Church Commissioners that the requirements of this section with respect to the acquisition have been complied with is conclusive evidence of that fact.
- (6) A statement in a document sealed by the Chapter that the consent of the Church Commissioners under this section is not required is conclusive evidence of that fact.

## **22 Disposal of land**

- (1) The Chapter of a cathedral may not dispose of land unless it has obtained the consent of the Church Commissioners.
- (2) The Chapter of a cathedral may not dispose of a house of residence unless it has obtained (in addition to the consent required under subsection (1))—
  - (a) the consent of the dean or residentiary canon who normally occupies the house, except during a vacancy in the office concerned, and
  - (b) if the house is allocated for the use of the holder of a dignity the right of presentation to which is vested in Her Majesty, Her consent.
- (3) Subsections (1) and (2) do not apply to a house of residence occupied by or allocated for the use of the holder of an office who is subject to common tenure.
- (4) Consent under this section is not required for—
  - (a) the grant of a lease or tenancy to a clerk in Holy Orders holding office in the cathedral or to a person employed by the Chapter;
  - (b) a transaction relating to land which, immediately before the original appointment date under the Cathedrals Measure 1999, was held by the dean and chapter of the cathedral of St. Paul in London as part of the Tillingham estate.
- (5) The Church Commissioners may by order except from subsections (1) and (2)—
  - (a) transactions relating to land forming part of an estate specified in the order;
  - (b) transactions of a class, or relating to property of a class, specified in the order.

- (6) A disposal of land by the Chapter of a cathedral which does not require consent under this section must nevertheless comply with Part 7 of the Charities Act 2011 (charity land).
- (7) Consent under subsection (1) or (2) may be given even if the consideration for the disposal is not the full consideration but consent is not needed if the Church Commissioners give a statement in writing that the disposal is of the kind described in section 117(3)(c) or (d) of the Charities Act 2011 (transaction at undervalue).
- (8) A statement in writing by the Church Commissioners that the requirements of this section with respect to the disposal have been complied with is conclusive evidence of that fact.
- (9) A statement in a document sealed by the Chapter that the consent of the Church Commissioners under this section is not required is conclusive evidence of that fact.
- (10) The reference in subsection (2) to a house of residence includes a reference to the buildings, gardens and other land held with the house.

### **23 Questions as to whether property permanently endowed**

- (1) If a question arises as to whether property held by or on behalf of the Chapter of a cathedral is or is not permanent endowment, it is for the Church Commissioners, on the application of the Chapter of the cathedral, to decide the matter.
- (2) A decision made by the Church Commissioners under this section is final.
- (3) A decision made by the Church Commissioners under this section must be set out in an instrument made under their seal.

### **24 Investment powers, etc.**

- (1) The Chapter of a cathedral may, in respect of money which forms part of the permanent endowment of the cathedral or is otherwise vested in the Chapter—
  - (a) invest it in the acquisition of land;
  - (b) invest it in an investment fund or deposit fund constituted under the Church Funds Investment Measure 1958;
  - (c) invest it in any investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (as restricted by sections 4 and 5 of that Act);
  - (d) use it for the improvement or development of property vested in the Chapter.
- (2) The Chapter may not exercise the power under subsection (1)(a) unless it has obtained the consent of the Church Commissioners.
- (3) The Chapter may not exercise the power under subsection (1)(d) to use money forming part of the endowment for the improvement or development of property which does not itself form part of the endowment.
- (4) The Chapter may not exercise the power under subsection (1)(d) to use money forming part of the endowment to improve or develop the cathedral church building.
- (5) The Chapter may not use the power under subsection (1)(d) to use money forming part of the endowment to repair property unless it—

- (a) is satisfied that an emergency has arisen which justifies using the money to repair the cathedral church building, and
  - (b) has obtained the consent of the Church Commissioners before spending the money.
- (6) If the Chapter spends money in reliance on subsection (5), it must replace it within such period and in such manner as it agrees with the Church Commissioners.
- (7) The Chapter of a cathedral may not exercise the power under regulation 4 of the Charities (Total Return) Regulations 2013 (which enables borrowing of up to 10% of permanent endowment) unless it has obtained the consent of the Church Commissioners.
- (8) Despite the repeal by section 51 of this Measure of section 17A of, and Schedule A1 to, the Cathedrals Measure 1999 (total return investment), any resolution in force under that section immediately before the commencement of the repeal is to continue in force as if it had been made under section 104A(2) of the Charities Act 2011.
- (9) “Money” includes stocks, shares, annuities and other securities.

## **25 Proceeds of disposal forming part of endowment**

- (1) Where property which forms part of the permanent endowment of a cathedral is disposed of, the proceeds (including any money received by way of loan on a mortgage or charge on land or premium on the grant of a lease or tenancy) are to be treated as part of the permanent endowment of the cathedral.
- (2) This section does not apply to property which is inalienable by virtue of section 20(1).

## **26 Allocation of housing**

The Chapter of a cathedral may allocate a house vested in the Chapter for the use of a person holding office in connection with the cathedral as a residence from which to perform the duties of the office.

## **27 Inspection of cathedral property**

- (1) The Chapter of each cathedral must continue to arrange, during each five-year period, for an architect or surveyor—
- (a) to carry out an inspection of all property (other than the cathedral church building) which the Chapter is liable to repair and maintain, and
  - (b) to make a written report to the Chapter on any works which the architect or surveyor considers will need to be carried out in relation to that property and on the urgency with which he or she thinks that they should be carried out.
- (2) In the case of property within the precinct of the cathedral, each report under subsection (1)(b) must be made in consultation with the cathedral archaeologist.
- (3) The Chapter must send a copy of each report under subsection (1)(b) to—
- (a) the fabric advisory committee of the cathedral,
  - (b) the Cathedrals Fabric Commission for England, and
  - (c) the Church Commissioners.

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*Status: This is the original version (as it was originally enacted).*

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- (4) The reference in subsection (1) to the five-year periods, in relation to a cathedral, is a reference to the periods of five years provided for under section 20(1) of the Cathedrals Measure 1999 (beginning with the original appointment date under that Measure).
- (5) “Cathedral archaeologist” has the meaning given in section 32(1) of the Care of Cathedrals Measure 2011; but in a case where, by virtue of section 23(2) of that Measure, there is no cathedral archaeologist, subsection (2) above is to be ignored.
- (6) “Precinct”, in relation to a cathedral, means the precinct for the time being indicated on the plan required for that cathedral under section 25(1) of the Care of Cathedrals Measure 2011.

### *Finance*

## **28 Payments from Church Commissioners’ general fund**

- (1) The Church Commissioners must pay sums by way of stipend or such other emoluments as they may determine—
  - (a) to the dean of each cathedral, and
  - (b) for two full-time equivalent residentiary canons of each cathedral engaged on cathedral duties.
- (2) The Chapter of a cathedral may, with the consent of the Church Commissioners, pay additional emoluments to the dean or to any residentiary canon for whom the Church Commissioners are required to make a payment under subsection (1)(b).
- (3) Where a person is appointed as dean of a cathedral, or as a residentiary canon the cost of whose stipend is to be met by the Church Commissioners under subsection (1), the Church Commissioners may make a grant to that person towards removal expenses incurred by him or her.
- (4) The Church Commissioners may make grants for—
  - (a) paying the stipend or other emoluments of any clerk in Holy Orders holding office in the cathedral, other than a dean or residentiary canon;
  - (b) paying the salary or other emoluments of any lay person employed by the Chapter or engaged to provide services in connection with the cathedral.
- (5) The Church Commissioners may make grants to the Chapter of a cathedral for the purpose of securing the better provision of houses for clerks in Holy Orders who hold office in the cathedral.
- (6) The Church Commissioners may make grants to the Chapter of a cathedral for the repair of a chancel, other than the chancel of the cathedral, which the Chapter is wholly or partly liable to repair.
- (7) The Church Commissioners may make grants for the purpose of supporting cathedrals to such bodies as appear to the Church Commissioners to represent cathedrals.
- (8) A grant or other payment by the Church Commissioners under this section is to be made out of their general fund; and the amount of any such grant or other payment is to be such amount as they from time to time determine.
- (9) In the application of this section to each cathedral of the diocese of Leeds, subsection (1) has effect as if for “two full-time equivalent residentiary canons” there



were substituted “one full-time equivalent residentiary canon”; but, in the case of each of those cathedrals, this subsection applies to that cathedral only if the Bishop of Leeds has given consent for it to apply to it.

## **29 Borrowing powers**

- (1) The Chapter of a cathedral may borrow money for any purpose connected with the cathedral.
- (2) But if the purpose for which the money is to be borrowed is such that the use of money forming part of the permanent endowment of the cathedral for that purpose would require the consent of the Church Commissioners, the Chapter may not borrow the money unless it has obtained their consent.
- (3) If the prospective debt arising from borrowing under this section would cause the Chapter’s total borrowings to exceed such threshold as the Church Commissioners may from time to time specify by order, the Chapter may not borrow the money unless it has obtained their consent.

## **30 Accounting matters**

- (1) The Church Commissioners may from time to time specify by order the date on which the financial year for the Chapter of every cathedral ends.
- (2) The Chapter of each cathedral must, within ten months of the end of its financial year, send a copy of its accounts and of its annual report to the Church Commissioners and the bishop.
- (3) The Church Commissioners may by order require the Chapter of a cathedral to provide them with such other financial information, and to do so within such period, as the order specifies.
- (4) Before making an order under subsection (3) which applies to all cathedrals, the Church Commissioners must consult such bodies as appear to them to represent cathedrals in relation to their financial affairs.

### *Amendment of governing instruments*

## **31 Revision of constitution and statutes**

- (1) The Chapter of each cathedral may, with the consent of the bishop and of the Church Commissioners, make such amendments to the constitution or statutes as are consistent with this Measure.
- (2) The power under subsection (1) may be exercised so as to replace (either as a whole or in part) the constitution or statutes.
- (3) Amendments which would, if the Chapter were a charitable incorporated organisation, be regulated alterations within the meaning of section 226 of the Charities Act 2011 may not be made to the statutes (and for provision as to amendments to the constitution, see section 33(2)).
- (4) Before deciding whether to give consent under this section, the Church Commissioners must consult the Secretary General of the General Synod.

- (5) Amendments to the constitution or statutes are to be made by way of instrument under the common seal of the Chapter.
- (6) If the Chapter does not itself prepare a draft of the instrument, it may request the Church Commissioners to do so; and the Church Commissioners, having received a request from the Chapter, may prepare a draft of the instrument.
- (7) The bishop may propose amendments to the constitution and statutes for consideration by the Chapter.

### **32 Consultation**

- (1) Before making amendments to the constitution or statutes, the Chapter of a cathedral must carry out consultation in accordance with this section.
- (2) The Chapter must prepare a notice of the preparation of a draft of an instrument containing the amendments proposed to the constitution or statutes; and the notice must—
  - (a) set out the purpose of the amendments,
  - (b) specify where the draft instrument may be viewed online,
  - (c) specify a place in the diocese where a copy of the draft instrument may be inspected, and
  - (d) state that written representations may be made to the Chapter no later than a specified date, with that date being at least 28 days after the publication of the notice.
- (3) The Chapter must—
  - (a) post the notice under subsection (2) on its website, and
  - (b) display the notice in a prominent position in or in the vicinity of the cathedral.
- (4) After the end of the period specified in the notice for the purposes of subsection (2) (d), the Chapter, having considered representations duly made during that period, may amend the draft instrument.

### **33 Consents**

- (1) The Chapter of a cathedral may not make amendments to the constitution or statutes unless it has obtained—
  - (a) the consent of the Church Commissioners,
  - (b) the consent of the bishop of the diocese, and
  - (c) if consent is required under subsection (2) or (3), that consent.
- (2) Amendments to the constitution which would, if the Chapter were a charitable incorporated organisation, be regulated alterations within the meaning of section 226 of the Charities Act 2011 require the consent of the Charity Commission.
- (3) Amendments to the constitution or statutes which affect any right or interest of Her Majesty require Her consent.

### **34 Formalities**

- (1) After the Chapter has carried out consultation on a draft instrument in accordance with section 32 and has made such amendments to the draft instrument as it thinks fit, the dean must sign a copy of the instrument in the form of that draft incorporating any such amendments.
- (2) A copy of the instrument signed by the dean must be sent to the Church Commissioners.
- (3) If the Church Commissioners are content with the instrument in the form in which it is sent to them under subsection (2), they must certify that to the Chapter; and the instrument comes into operation on the date of the certificate.
- (4) In the case of amendments made to the constitution, the Chapter must, within 15 working days of receiving the certificate under subsection (3), file a copy of the instrument with the Charity Commission.
- (5) In subsection (4), “working day” means a day which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday in England under the Banking and Financial Dealings Act 1971.

### *Safeguarding*

### **35 Duty to have due regard to guidance**

In section 5(2) of the Safeguarding and Clergy Discipline Measure 2016 (persons required to have due regard to House of Bishops’ guidance), after paragraph (g) insert “:

- (h) the Chapter of a cathedral”.

### **36 Disqualification**

- (1) If a person is included in a barred list, the person is disqualified from being appointed or elected as, or from serving as, a member of the Chapter of a cathedral.
- (2) If a person is convicted of an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933, the person is disqualified from being appointed or elected as, or from serving as, a member of the Chapter of a cathedral.
- (3) If a person disqualified under subsection (1) or (2) is a member of the Chapter of a cathedral, the member’s seat is vacated.
- (4) A person’s disqualification under subsection (2) may be waived by the bishop giving the person notice in writing; and the notice must specify the bishop’s reasons for giving the waiver.
- (5) Where a person whose seat is vacated under subsection (3) has his or her disqualification waived under subsection (4), the person may resume his or her seat if it has remained vacant.
- (6) A waiver under subsection (4)—
  - (a) is of unlimited duration, and
  - (b) has effect in relation to the Chapter of every cathedral.

- (7) Before deciding whether to give a waiver under subsection (4), the bishop must consult—
  - (a) the diocesan safeguarding advisor, and
  - (b) such other persons as the bishop considers appropriate.
- (8) On giving a notice under subsection (4), the bishop must give a copy of the notice to the registrar of the diocese; and the registrar must file the copy in the diocesan registry.

### **37 Suspension**

- (1) This section applies where a member of the Chapter of a cathedral—
  - (a) is arrested on suspicion of committing an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933, or
  - (b) is charged with an offence mentioned in that Schedule without being arrested.
- (2) This section also applies where the bishop of a diocese is satisfied, on the basis of information provided by a local authority or the police, that a member of the Chapter of a cathedral presents a significant risk of harm.
- (3) The bishop may suspend the person from the Chapter by giving the person notice in writing; and the notice must specify the bishop's reasons for imposing the suspension.
- (4) The bishop may at any time revoke the suspension by giving the person notice in writing.
- (5) For the purposes of subsection (2), a person presents a significant risk of harm if there is a significant risk that the person may—
  - (a) harm a child or vulnerable adult,
  - (b) cause a child or vulnerable adult to be harmed,
  - (c) put a child or vulnerable adult at risk of harm,
  - (d) attempt to harm a child or vulnerable adult, or
  - (e) incite another person to harm a child or vulnerable adult.
- (6) Before deciding whether to suspend a person under subsection (3), or to revoke a suspension made under that subsection, the bishop must consult—
  - (a) the diocesan safeguarding advisor, and
  - (b) such other persons as the bishop considers appropriate.
- (7) A suspension in a case within subsection (1) continues (unless revoked under subsection (4)) until the earlier of—
  - (a) the expiry of three months beginning with the day on which the notice is given, and
  - (b) the conclusion of the matter.
- (8) Where a person is suspended in a case within subsection (1) and the matter is not concluded before the expiry of the three-month period referred to in subsection (7)(a), a further notice of suspension may be given under subsection (3); and subsection (7) and this subsection apply to the further suspension as they applied to the earlier suspension or suspensions.
- (9) A suspension in a case within subsection (2) continues (unless revoked under subsection (4)) until the expiry of three months beginning with the day on which the notice is given.

- (10) Where a person is suspended in a case within subsection (2), a further notice of suspension may be given under subsection (3); and subsection (9) and this subsection apply to the further suspension as they applied to the earlier suspension or suspensions.
- (11) Having given a notice of suspension or revocation under this subsection, the bishop must give each of the following written notification—
- (a) the members of the Chapter,
  - (b) the registrar of the diocese,
  - (c) the diocesan safeguarding advisor,
  - (d) any person appointed by the Chapter to advise it on matters relating to safeguarding children and vulnerable adults, and
  - (e) such other persons as the bishop considers appropriate.
- (12) The registrar must file a notification given under subsection (11)(b) in the diocesan registry.
- (13) For the purposes of this section, a matter is concluded when—
- (a) a decision is taken not to charge the person with the offence in question, or
  - (b) where the person is charged with the offence, the proceedings for the offence are concluded.

### **38 Appeal against suspension**

- (1) A person who is given a notice of suspension under section 37(3) may appeal against the suspension in accordance with rules for the time being in force under section 83 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.
- (2) An appeal under this section must be made to the president of tribunals (as to whom, see section 4 of the Clergy Discipline Measure 2003).
- (3) On an appeal under this section, the president of tribunals may, within 28 days following the lodging of the appeal, either confirm or revoke the suspension.

### **39 Sections 36 and 37: interpretation**

- (1) In sections 36 and 37—
- “barred list” has the same meaning as in the Safeguarding Vulnerable Groups Act 2006;
  - “child” means a person aged under 18;
  - “diocesan safeguarding advisor” means the person appointed as such under Canon C 30 for the diocese in question;
  - “vulnerable adult” has the same meaning as in the Safeguarding and Clergy Discipline Measure 2016.
- (2) A reference in those sections to an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933 is a reference to an offence which is—
- (a) mentioned in that Schedule as amended, extended or applied from time to time, or
  - (b) treated by an enactment (whenever passed or made) as if it were mentioned in that Schedule.

*Parish church cathedrals***40 Modification of Church Representation Rules, etc.**

- (1) This section applies in the case of a cathedral which is, or part of which is, a parish church.
- (2) A reference in this Measure to a cathedral which is, or part of which is, a parish church, is a reference to a cathedral, or part of a cathedral, in respect of which there was no corporate body known as the dean and chapter, immediately before the original appointment date under the Cathedrals Measure 1999.
- (3) In their application to the parish concerned, the Church Representation Rules have effect as if—
  - (a) for each reference to the PCC or its secretary there were substituted a reference to the Chapter of the cathedral or its clerk,
  - (b) Rules M1(3)(d), M5(4) to (8) and M6(1)(b), (2) and (7) were omitted,
  - (c) Rule M8 was disapplied in relation to the PCC,
  - (d) Rules M14 to M42 were omitted, and
  - (e) despite Rule M1(2)(b) and (3), every residentiary canon of the cathedral and other clerk in Holy Orders holding office in the cathedral were entitled to attend any annual or special parochial church meeting of the parish and to take part in its proceedings, whether or not the canon or other clerk is resident in the parish.
- (4) In its application to the parish concerned, the Parochial Church Councils (Powers) Measure 1956 has effect as if—
  - (a) for each reference to the PCC there were substituted a reference to the Chapter, and
  - (b) sections 3, 5(1), 6, 6A, 7(1)(iii) and (iv) and (2), 8 and 9 were omitted.
- (5) “PCC” means parochial church council.

**41 Scheme for cathedral to cease to be parish church**

- (1) The Church Commissioners may, at the request of the Chapter of a cathedral which is or part of which is a parish church, make a scheme to provide for the cathedral or part to cease to be a parish church.
- (2) A scheme under this section may make provision—
  - (a) for any matter for which provision may be made in a pastoral scheme under Part 3 of the Mission and Pastoral Measure 2011;
  - (b) to transfer functions, property or liabilities;
  - (c) to amend the constitution or statutes;
  - (d) to modify the Church Representation Rules, the Parochial Church Councils (Powers) Measure 1956 or the Churchwardens Measure 2001.
- (3) A scheme under this section must include provision as to responsibility for the exercise of the power to appoint the dean.
- (4) A scheme under this section may include consequential, supplementary, incidental or transitional provision.

*Removal from office, etc.*

**42 Removal etc. from cathedral office**

(1) After section 3 of the Ecclesiastical Offices (Terms of Service) Measure 2009, insert—

**“3A Removal from cathedral office after disqualification as charity trustee**

- (1) This section applies in the case of an office holder referred to in section 1(1) (d) who—
- (a) by virtue of that office, is a charity trustee of the Chapter of a cathedral, but
  - (b) is disqualified from being a charity trustee under the Charities Act 2011.
- (2) The bishop of the diocese must, by notice in writing, remove the person from the office.
- (3) But the duty under subsection (2) does not arise unless and until—
- (a) any appeal against the disqualification under the Charities Act 2011 is dismissed or abandoned or the period for bringing an appeal expires without an appeal being brought, and
  - (b) subject to subsection (4), the period of three months beginning with the date on which the disqualification takes effect expires without a waiver of the disqualification under the Charities Act 2011 being granted or applied for.
- (4) If, at the end of the three-month period referred to in subsection (3)(b), an application for a waiver of the disqualification has been made but not yet determined, the duty under subsection (2) does not arise unless and until the application is refused.
- (5) The duty under subsection (2) must be complied with as soon as reasonably practicable and in any event before the end of 30 days beginning with the day on which the duty arises in accordance with subsection (3) or (4).
- (6) The bishop must, by notice in writing, suspend the person from office for a period which begins when the disqualification takes effect and ends—
- (a) if the duty under subsection (2) arises, when the duty is complied with;
  - (b) if the duty under subsection (2) does not arise because an appeal of the kind mentioned in subsection (3)(a) is allowed, when the appeal is allowed;
  - (c) if the duty under subsection (2) does not arise because an application of the kind referred to in subsection (3)(b) is granted, when the application is granted.
- (7) The bishop of the diocese, having complied with the duty under subsection (2), must give a copy of the notice under that subsection to the archbishop of the province in which the diocese is situated and to the registrar of the diocese.

### **3B Suspension of dean or residentiary canon**

Where a dean or residentiary canon holding office under Common Tenure is suspended under section 76(3) of the Charities Act 2011, the bishop of the diocese must, by notice in writing, suspend the person from office until the end of the period of the suspension under section 76(3) of that Act (including any extensions of that period).”

- (2) In section 3 of that Measure (duration of appointments), in subsection (3)(f), after “subsection (1) above” insert “or section 3A of this Measure”.
- (3) Sections 3A and 3B of that Measure (inserted by subsection (1) of this section) apply in the case of a person who holds the office of dean or residentiary canon on freehold as they apply in the case of a person who holds that office under common tenure.
- (4) Nothing in this Measure, so far as relating to membership of the Chapter of a cathedral, affects the application of any enactment providing for the disqualification or suspension of a person from being a charity trustee (and, accordingly, from being a member of the Chapter of a cathedral).
- (5) The amendment made by subsection (1) (including as it is applied by subsection (3)) applies in a case where, immediately before the commencement of that subsection, a person is disqualified from being a charity trustee under the Charities Act 2011 (as well as in a case where a person becomes so disqualified after that commencement).

### **43 Termination of senior management role**

- (1) This section applies where a chief officer or another person employed by the Chapter with senior management functions—
  - (a) is disqualified under the Charities Act 2011 from being a charity trustee, and
  - (b) is, accordingly, also disqualified by virtue of section 178(3) or 181A(3) of that Act from employment by the Chapter with senior management functions.
- (2) The person’s employment by the Chapter is terminated when—
  - (a) any appeal against the disqualification under that Act is dismissed or abandoned or the period for bringing an appeal expires without an appeal having been brought, and
  - (b) the period of three months beginning with the date on which the disqualification takes effect expires without a waiver of the disqualification under that Act being granted or applied for.
- (3) The references to “senior management functions” are to be read with section 178(4) or 181A(4) (as the case may be) of the Charities Act 2011.

### *Church Commissioners*

### **44 Exemption from liability in damages**

- (1) Neither the Church Commissioners nor a person who is, or is acting as, a member, officer or member of staff of the Church Commissioners is to be liable in damages for anything done or omitted in the discharge or purported discharge of the Church Commissioners’ functions under this Measure.



(2) Subsection (1) does not apply if the act or omission is shown to have been in bad faith.

### *Interpretation*

## **45 Interpretation**

(1) In this Measure—

- “architect” means a person registered under the Architects Act 1997;
- “bishop”, in relation to a cathedral, means the bishop of the diocese of which that cathedral is the cathedral;
- “cathedral church building” has the meaning given in section 4(2);
- “cathedral community”, in relation to a cathedral, means—
  - (a) persons over the age of 16 who worship regularly in the cathedral or are engaged in work or service connected with the cathedral in a regular capacity, and
  - (b) such other persons as the statutes may specify as members of the cathedral community;
- “cathedral duties”, in relation to a cathedral, means duties (whether in the cathedral or the diocese) which should, in the opinion of the Chapter after consultation with the bishop, be performed in or from the cathedral;
- “chief officer” has the meaning given in section 5(3);
- “consent” means written consent;
- “constitution”, in relation to a cathedral, is to be read with section 4(4);
- “dean” is to be read with section 13(5);
- “emolument” includes a direct or indirect benefit of any nature;
- “diocesan board of finance”, in relation to a cathedral, means the diocesan board of finance for the diocese of which that cathedral is the cathedral;
- “diocese”, in relation to a cathedral, is a reference to the diocese of which that cathedral is the cathedral;
- “ecclesiastical exemption” means the exemption under Article 6(a) of the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010;
- “executive member” is to be read with paragraph 1 of Schedule 1;
- “function” means power or duty;
- “land” includes corporeal or incorporeal hereditaments of any tenure and references to acquiring or disposing of land are to be read with subsections (3) and (4);
- “non-executive member” is to be read with paragraph 1 of Schedule 1;
- “original appointment date” under the Cathedrals Measure 1999, in relation to a cathedral, means the date appointed in the case of that cathedral under section 38(2) of that Measure (and referred to in that Measure as “the relevant date”);
- “permanent endowment”, in relation to a cathedral, is to be read with section 353(3) of the Charities Act 2011;
- “property” includes a thing in action and any interest in real or personal property and references to acquiring or disposing of property are to be read with subsections (3) and (4);
- “residentiary canon” includes a stipendiary canon;

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“statutes”, in relation to a cathedral, is to be read with section 7(7);

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

- (2) A reference in this Measure to a cathedral which is, or part of which is, a parish church is to be read with section 40(2).
- (3) A reference in this Measure to acquiring property, in relation to a cathedral, is a reference to acquiring property for any purpose connected with the cathedral and to acquiring it whether by gift or otherwise; and a reference to acquiring property by gift includes a reference to acquiring it by will.
- (4) A reference in this Measure to disposing of land is a reference to selling, granting a lease or tenancy or licence of, exchanging, mortgaging or charging the land or dedicating it for the purposes of a highway.
- (5) In the application of this section to the diocese of Leeds, subsection (1) has effect as if—
  - (a) in the definition of “cathedral duties”, at the end there were inserted “and includes a reference to duties carried out in the Minister and Parish Church of Saint Peter-at-Leeds (commonly known as Leeds Minster)”, and
  - (b) in the definitions of “bishop”, “diocesan board of finance” and “diocese”, for “the cathedral” there were substituted “one of the cathedrals”.
- (6) The Cathedral Church of St Peter and St Wilfrid, commonly known as Ripon Cathedral and one of the cathedrals of the diocese of Leeds, does not come within subsection (2) but is nonetheless to be treated for the purposes of this Measure as being a parish church.

#### *Transitional provisions*

### **46 Preparatory steps by Councils**

- (1) The Council of each cathedral must act so as to secure the revision of the constitution and statutes in readiness for the implementation of this Measure; and to secure that objective, the Council must act in accordance with sections 31 to 34 as modified by section 53(2).
- (2) If, before the passing of this Measure, the Council of a cathedral has taken steps which it considers necessary or appropriate for securing the objective under subsection (1), those steps are to be treated as if they had been taken in compliance with subsection (1) after the passing of this Measure.
- (3) If the Church Commissioners are satisfied that the Council of a cathedral has secured the objective under subsection (1), they must certify to the Charity Commission and to the Chapter that—
  - (a) the constitution and statutes have been revised in readiness for the implementation of this Measure,
  - (b) the provisions of this Measure specified in the certificate will come into force in relation to the cathedral on the day on which the revised constitution and statutes take effect (as to which see, section 53(3)), and
  - (c) the charity provisions (as to which, see section 53(7)) will come into force in relation to the cathedral on the date specified in the certificate.

- (4) The date certified under subsection (3)(c) must be—
  - (a) no earlier than three months after the date on which the revision of the constitution and statutes was completed, and
  - (b) no later than three years after the date on which this Measure is passed.
- (5) A certificate for the purposes of subsection (3)(c) may be given after the certificate for the purposes of subsection (3)(a) and (b) is given.
- (6) If, in the opinion of the Church Commissioners, there is an unreasonable delay on the part of the Council of a cathedral in taking steps to secure the objective under subsection (1), the Church Commissioners may themselves act in accordance with sections 31 to 34 so as to secure the objective; and for that purpose, those sections have effect as if—
  - (a) any reference to the Chapter were a reference to the Church Commissioners, except in section 34(3),
  - (b) in each of sections 31(1) and 33(1), the requirement for the consent of the Church Commissioners were omitted,
  - (c) in section 31, subsections (4) and (6) were omitted, and
  - (d) in section 32 there were also a requirement for the notice under subsection (2) of that section to be sent to the Chapter and the administrator of the cathedral.
- (7) The Chapter may appeal to the archbishop of the province against a decision by the Church Commissioners to act under subsection (6); and the archbishop's decision is final.
- (8) Subsections (1) and (2) do not affect the operation of section 13 of the Interpretation Act 1978 (anticipatory exercise of powers) in relation to this Measure.

#### **47 Transfer of trust property**

- (1) The trusteeship of the property specified in the Table in Schedule 3, being property held by the Church Commissioners on trust in connection with the cathedral so specified, is transferred by virtue of this section on the date on which this section comes into force for the Chapter to hold for the cathedral's general purposes.
- (2) A transfer by virtue of this section is made free from any restriction on the expenditure of capital which was in force immediately before the transfer.
- (3) On a transfer by virtue of this section, the Church Commissioners are discharged from the trust.

#### **48 Saving for existing interests**

No provision of this Measure or of an instrument made under section 31 is to be taken as adversely affecting the tenure of office or right to a pension of a person who, immediately before the commencement of the provision, was holding or had held a freehold or other office conferring fixity of tenure in a cathedral unless, by an instrument in writing under his or her hand, the person agrees to be bound by the provision.

#### **49 Special provision for Ripon Cathedral**

- (1) This section applies to the Cathedral Church of St Peter and St Wilfrid, commonly known as Ripon Cathedral and one of the cathedrals of the diocese of Leeds.
- (2) The functions of the PCC of the parish for which the Cathedral is the parish church are transferred to the Chapter of the Cathedral.
- (3) On the transfer under subsection (2), all relevant property of the PCC is transferred to the Chapter of the Cathedral without any instrument or other formality being required; and for this purpose, the “relevant property” of the PCC is—
  - (a) the property held by the PCC,
  - (b) the property vested in the diocesan authority under section 6(2) of the Parochial Church Councils (Powers) Measure 1956 or vested in that authority as custodian trustee on behalf of the PCC, or
  - (c) any other property held on trust for the PCC.
- (4) A bequest or other gift which is expressed as a gift to the PCC, and which takes effect on or after the day on which this section comes into force, takes effect as a gift to the Chapter of the Cathedral.
- (5) “PCC” means parochial church council.

#### *Consequential amendments and repeals*

#### **50 Consequential amendments**

- (1) Schedule 4 (which makes consequential amendments) has effect.
- (2) The amendments made by Part 2 of that Schedule (procedural rules) do not affect the power to make further provision amending or revoking the provision made by any of the amendments.

#### **51 Repeals**

- (1) The Cathedrals Measure 1999 is repealed, except for sections 39(1) and 40 and Schedule 2.
- (2) In consequence of that, the following provisions are repealed—
  - (a) in the Trustee Act 2000, in Schedule 2, paragraph 57 and the preceding cross-heading;
  - (b) in the Care of Cathedrals (Amendment) Measure 2005, in Schedule 3, paragraphs 7 to 10 and the preceding cross-heading;
  - (c) in the Charities Act 2006, in Schedule 8, paragraph 196 and the preceding cross-heading;
  - (d) in the Ecclesiastical Offices (Terms of Service) Measure 2009, section 11(8);
  - (e) in the Charities Act 2011, in Schedule 7, paragraphs 82 to 85 and the preceding cross-heading;
  - (f) in the Church of England (Miscellaneous Provisions) Measure 2014, section 14 and Schedule 1;
  - (g) in that Measure, in Schedule 2, paragraph 14 and the preceding cross-heading;

- (h) in the Church of England (Miscellaneous Provisions) Measure 2018, section 13(1) and (2).
- (3) In the Dioceses of Bradford, Ripon and Leeds and Wakefield Reorganisation Scheme 2013, Part 1 of Schedule 2 (which modifies the Cathedrals Measure 1999 in relation to the diocese of Leeds) is revoked.

*Final*

**52 Application and extent**

- (1) This Measure applies to cathedrals in England only but does not apply to the cathedral church of Christ in Oxford, except in so far as Schedule 4 amends a provision which applies to that cathedral church.
- (2) An amendment or repeal made by this Measure has the same extent as the provision being amended or repealed.

**53 Commencement**

- (1) The following provisions come into force on the day on which this Measure is passed—
  - (a) sections 31 to 34 (other than sections 31(3), 33(2) and 34(4) and (5)) (amendment of governing instruments);
  - (b) section 45 (interpretation), so far as necessary for the purposes of any other provision which comes into force under this subsection;
  - (c) sections 46 to 48 (preparatory steps and savings);
  - (d) section 51(1) (repeal), so far as relating to Part 3 of the Cathedrals Measure 1999 (revision of constitution and statutes);
  - (e) section 52 (application and extent);
  - (f) this section;
  - (g) section 54 (short title);
  - (h) paragraphs 6, 7 and 9(1), (2) and (4) of Schedule 4 (amendments to Cathedrals Measure 1963) and section 50(1) so far as it gives effect to those paragraphs.
- (2) Pending the commencement under subsection (3) of the remaining provisions of this Measure other than the charity provisions (as to which see subsection (7)), sections 31 to 34 have effect as if any reference to the Chapter of a cathedral were a reference to the Council established for the cathedral under sections 2 and 3 of the Cathedrals Measure 1999.
- (3) The remaining provisions of this Measure, other than the charity provisions and section 51 (in so far as it is not already in force), come into force in relation to a cathedral on the day on which the constitution and statutes, amended under sections 31 to 34 as modified by subsection (2) of this section or by section 46(6), take effect; and on that day the Cathedrals Measure 1999, other than section 17A and Schedule 1, ceases to apply to the cathedral.
- (4) Accordingly, sections 45(6) and 49 come into force on the day on which the provisions referred to in subsection (3) come into force in accordance with that subsection in relation to the Cathedral Church of St Peter and St Wilfrid, commonly known as Ripon Cathedral and one of the cathedrals of the diocese of Leeds.

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- (5) Pending the commencement of the charity provisions in relation to a cathedral—
- (a) section 12(11) does not have effect in relation to the cathedral,
  - (b) paragraph 2 of Schedule 1 has effect in relation to the cathedral as if—
    - (i) in sub-paragraph (1), for the words “a waiver under that Act which is applicable to membership of the Chapter” there were substituted “such waiver as the bishop may grant by notice in writing”, and
    - (ii) after sub-paragraph (1) there were inserted—
      - “(1A) Before deciding whether to grant a waiver under sub-paragraph (1), the bishop must consult—
        - (a) the diocesan safeguarding advisor, and
        - (b) such other persons as the bishop considers appropriate.
      - (1B) On granting a waiver under sub-paragraph (1), the bishop must give a copy of the notice to the registrar of the diocese; and the registrar must file the copy in the diocesan registry.”, and
  - (c) paragraph 4(2), (4) and (5) of Schedule 1 has effect in relation to the cathedral as if the reference to a charity trustee were omitted.
- (6) The charity provisions come into force in relation to a cathedral on the day certified in relation to that cathedral under section 46(3)(c); and on that day section 17A of and Schedule 1 to the Cathedrals Measure 1999 cease to apply to the cathedral.
- (7) The “charity provisions” are—
- (a) section 8 (application of the Charities Act 2011);
  - (b) section 9(10) (decisions of Charity Commission);
  - (c) section 22(6) and (7) (disposal of land in compliance with Charities Act);
  - (d) section 24(7) and (8) (total return investment);
  - (e) section 31(3) (regulated amendments to statutes);
  - (f) section 33(2) (regulated amendments to constitution);
  - (g) section 34(4) and (5) (filing amended constitution with Charity Commission);
  - (h) section 42 (removal etc. from cathedral office on disqualification as charity trustee);
  - (i) section 43 (removal from senior management role on disqualification as charity trustee);
  - (j) in Schedule 1, paragraph 4(6) (disapplication of section 185 of Charities Act);
  - (k) in Schedule 4, paragraph 31 (repeal of provision in Church of England (Miscellaneous Provisions) Measure 2010 that cathedral corporate body not charity).
- (8) Section 51 (in so far as it is not already in force) comes into force on the first day on which the charity provisions are in force in relation to each cathedral.
- (9) The Archbishops’ Council must, in the case of each cathedral, publish in such manner as it considers appropriate—
- (a) notice of the date on which the provisions of this Measure other than the charity provisions and section 51 (in so far as it is not already in force) come into force under subsection (3) of this section;

- (b) notice of the date on which the charity provisions come into force under subsection (6) of this section.
- (10) The Archbishops of Canterbury and York may by order jointly make transitional, transitory or saving provision in connection with the commencement of a provision of this Measure.
- (11) The power to make an order under this section is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies as if the order had been made by a Minister of the Crown and as if this Measure were an Act of Parliament.

**54 Short title**

This Measure may be cited as the Cathedrals Measure 2021.

## SCHEDULES

### SCHEDULE 1

Section 2(5)

#### THE CHAPTER OF A CATHEDRAL

##### *Membership*

- 1 (1) The members of the Chapter of a cathedral are—
  - (a) the dean of the cathedral,
  - (b) the residentiary canons of the cathedral, and
  - (c) such other persons as are appointed or elected in accordance with this Schedule.
- (2) The following members of the Chapter are referred to in this Measure as the “executive” members—
  - (a) the dean of the cathedral, and
  - (b) each residentiary canon who carries out cathedral duties.
- (3) For the purposes of sub-paragraph (2)(b), a residentiary canon is not to be regarded as carrying out cathedral duties if the Chapter considers that the duties carried out by that residentiary canon are of such a minor nature that they should be disregarded for those purposes.
- (4) Any question arising as to the nature of cathedral duties carried out by a residentiary canon is to be determined by the bishop as Visitor.
- (5) The other members of the Chapter are referred to in this Measure as the “non-executive” members.
- (6) The Chapter must have more non-executive members than executive members.
- (7) The Chapter must have at least eight members but no more than twelve or such larger number as is necessary to comply with sub-paragraph (6).
- (8) At least two-thirds of the non-executive members must be lay persons.

##### *Eligibility, etc.*

- 2 (1) A person is not eligible to be a member of the Chapter if—
  - (a) the person is disqualified from being a charity trustee under the Charities Act 2011, and
  - (b) the disqualification is not subject to a waiver under that Act which is applicable to membership of the Chapter.
- (2) Section 36 (safeguarding) makes other provision about disqualification from appointment to the Chapter.



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- (3) A person is not eligible to be a member of the Chapter if the person is a chief officer; and, accordingly, if a member of the Chapter is appointed as a chief officer, the membership of the Chapter terminates on the appointment.
- (4) But a chief officer who was a member of the Chapter in accordance with the Cathedrals Measure 1999 immediately before the commencement of this Schedule in relation to the cathedral may, in spite of sub-paragraph (3), continue to serve as such—
  - (a) until the commencement of the charity provisions (see section 53(7)), and
  - (b) if the Chapter's application under section 35 of the Charities Act 2011 for registration as a charity includes a request for the chief officer to continue to serve as such and the request is agreed to, from the time when the request is agreed to.
- (5) Where the Chapter's application for registration as a charity includes a request of the kind mentioned in sub-paragraph (4)(b), a chief officer is entitled to serve in reliance on sub-paragraph (4) pending the decision on whether to agree to the request.
- (6) A person is not eligible to be a member of the Chapter unless the person is aged 16 or over.
- (7) A person is eligible to be a non-executive member only if the person is—
  - (a) an actual communicant (within the meaning given in Rule 83(2) of the Church Representation Rules), or
  - (b) a communicant member of a Church which is not in communion with the Church of England but subscribes to the doctrine of the Holy Trinity.
- (8) A majority of the non-executive members must be actual communicants (within the meaning given in Rule 83(2) of the Church Representation Rules).
- (9) At least one non-executive member must have recent and relevant financial experience.

*Non-executive members: appointment or election*

- 3 (1) It is for the members of the Chapter, subject to sub-paragraph (2), to appoint all but one of the non-executive members other than the residentiary canons; and an appointment under this sub-paragraph may be made only if the bishop has approved it.
- (2) If the constitution so provides, up to one-third of the non-executive members of the Chapter (other than the residentiary canons) may be elected—
  - (a) where the cathedral is not a parish church, by the persons whose names are included on the roll maintained for the purposes of section 6(1) and, if there is a roll maintained under section 6(4), by the persons whose names are included on that roll, or
  - (b) where the cathedral or part of it is a parish church, by the persons whose names are included on the church electoral roll of the parish and, if there is a roll maintained for the purposes of section 6(5), by the persons whose names are included on that roll.
- (3) A person is not eligible to be a candidate for an election referred to in sub-paragraph (2) unless the person's candidacy has been approved by the bishop, the Chapter and the Nominations Committee.

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*Status: This is the original version (as it was originally enacted).*

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- (4) If the constitution so provides, an election referred to in sub-paragraph (2) is to be held in accordance with the statutes.
- (5) It is for the bishop of the diocese to appoint one of the non-executive members who is not a residentiary canon; but before making an appointment under this sub-paragraph, the bishop must consult the Chapter.

#### *Emoluments and expenses*

- 4 (1) An executive member is entitled to receive stipends or any other emoluments in accordance with section 26 or 28.
- (2) An executive member who is a residentiary canon and does not receive stipends or any other emoluments in accordance with section 26 or 28 is entitled to receive stipends or any other emoluments from the Chapter or from any other person in respect of any functions (other than as a charity trustee) relating to the cathedral.
- (3) Neither a non-executive member nor a connected person is entitled to receive any emoluments from the Chapter.
- (4) Neither a non-executive member nor a connected person is entitled to receive any emoluments from the Church Commissioners in respect of any functions (whether as a charity trustee or otherwise) relating to the cathedral.
- (5) A member of the Chapter is entitled to reimbursement of reasonable expenses incurred in exercising functions as such and as a charity trustee.
- (6) Section 185 of the Charities Act 2011 (remuneration for charity trustee providing services to a charity) does not apply to a member of the Chapter.
- (7) “Connected person”, in relation to a non-executive member, has the meaning it has in accordance with section 188 of the Charities Act 2011 in relation to any charity trustee.

#### *Senior non-executive member*

- 5 (1) The non-executive member appointed by the bishop under paragraph 3(5) is, by virtue of that appointment, the senior non-executive member of the Chapter.
- (2) The senior non-executive member—
  - (a) may be a lay person or a clerk in Holy Orders, but
  - (b) may not be a suffragan or assistant bishop or archdeacon in the diocese or the bishop’s chaplain or the diocesan secretary.

#### *Meetings*

- 6 (1) Meetings of the Chapter are to be chaired by—
  - (a) the dean, or
  - (b) if the dean is absent, the senior non-executive member, or
  - (c) if the dean and the senior non-executive member are absent, a non-executive member chosen by the members of the Chapter.

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- (2) But the senior non-executive member is not entitled to chair a meeting of the Chapter if a person appointed under section 13 is carrying out functions of the dean (unless that person is himself or herself absent).
- (3) Each year, the Chapter must hold a sufficient number of meetings to enable the efficient transaction of its business.
- (4) The chief officers must attend each meeting of the Chapter unless the Chapter considers that there are circumstances which justify excluding or excusing either or both of the chief officers from the whole or part of the meeting; and a chief officer, when attending the whole or part of a meeting of the Chapter, may speak but may not vote.
- (5) If there is a tied vote at a meeting of the Chapter which is being chaired by the dean, the dean has a second, casting vote.

#### *Trust corporation*

- 7 For the purposes of each of the following provisions, “trust corporation” includes the Chapter of a cathedral—
- (a) section 117(1)(xxx) of the Settled Land Act 1925;
  - (b) paragraph (18) of section 68(1) of the Trustee Act 1925;
  - (c) section 205(1)(xxviii) of the Law of Property Act 1925;
  - (d) section 55(1)(xxvi) of the Administration of Estates Act 1925;
  - (e) section 128 of the Senior Courts Act 1981.

#### *Transfer of Council’s trusteeships etc.*

- 8
- (1) The trusts of any charity the property of which was, immediately before the commencement of section 2(3), vested in or under the management or control of the Council for a cathedral, whether with or without other persons, are to have effect with the replacement of the Council by the Chapter in its capacity as the body corporate for the cathedral.
  - (2) The trusts of any charity the property of which was, immediately before the commencement of section 2(3), vested in or under the management or control of one or more members of the Council for a cathedral in their capacity as such, whether with or without other persons, are to have effect with the replacement of each member concerned by a member of the Chapter whom it has appointed for the purpose.
  - (3) Any power to make an appointment or to give consent which was conferred on the Council for a cathedral by an instrument or other document made before the commencement of section 2(3) is transferred to the Chapter for it to exercise in its capacity as the body corporate for the cathedral.
  - (4) Any power to make an appointment or to give consent which was conferred on the chair of the Council for a cathedral in his or her capacity as such by an instrument or other document made before the commencement of section 2(3) is transferred to the dean as chair of the Chapter for him or her to exercise in that capacity.

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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULE 2

Section 3

### DIOCESE OF LEEDS: THE COLLEGE OF CANONS

- 1 In its application to the diocese of Leeds, section 3 has effect as if the following were substituted for it—

#### “3 The College of Canons

- (1) There is to continue to be a body for all of the cathedrals of the diocese, established in the case of each cathedral in accordance with the constitution, called the College of Canons (but, by virtue of section 2(2), neither that body nor its members form part of the body corporate for the cathedral).
- (2) The members of the College of Canons are—
  - (a) the dean of each cathedral of the diocese,
  - (b) every suffragan bishop of the diocese,
  - (c) every canon of each of the cathedrals of the diocese,
  - (d) every archdeacon of the diocese, and
  - (e) the incumbent of any benefice a church belonging to which is the pro-cathedral of the diocese.
- (3) The function of presiding in the College of Canons is exercisable—
  - (a) by the dean of a cathedral of the diocese appointed by the bishop for that purpose, or
  - (b) if that dean is unable to preside or elects not to do so on a particular occasion, by such of the other deans as has held office longest as dean of a cathedral of the diocese.
- (4) The functions conferred by the Appointment of Bishops Act 1533 on the body referred to in that Act as the dean and chapter of a cathedral are exercisable by the College of Canons; and that Act is to be read accordingly.
- (5) The reference in subsection (3) to presiding in the College of Canons includes a reference to calling the College together for the purpose of performing the functions referred to in subsection (4).
- (6) The College of Canons has such other functions as may be conferred on it by the constitution or statutes.
- (7) In subsection (2)(c), “canon” includes a lay canon and a non-residentiary canon but not a minor canon; and “non-residentiary canon” includes a prebendary who is not a residentiary canon.”

## SCHEDULE 3

Section 47

### TRANSFER OF TRUST PROPERTY

<i>Cathedral</i>	<i>Property</i>
Chester	Barbara Dod Fund
Chichester	Prebendal Funds

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<i>Cathedral</i>	<i>Property</i>
Gloucester	Re-estab Canonry
Guildford	Residential Canonry
Leicester	Provost Fund
St. Paul in London	Cantlers Prebend
Newcastle	Endowment Fund
Portsmouth	Canonry Fund
Salisbury	ex Rent Charge
Sheffield	Provost Fund
Sheffield	Canonry Fund
York	Consolidated Fund
York	Starkey Choir Fund
York	Bedern Fund

#### NOTES

- 1 In each entry in the Table, the name specified in the second column is the name used in the Church Commissioners' records to refer to certain property held by them on trust in connection with the cathedral specified in the first column; and the property referred to in that entry is, accordingly, the property referred to by that name in those records.

## SCHEDULE 4

Section 50

### CONSEQUENTIAL AMENDMENTS

#### PART 1

##### ACTS AND MEASURES

#### *Ecclesiastical Commissioners Act 1840*

- 1 In section 27 of the Ecclesiastical Commissioners Act 1840 (qualification of deans, archdeacons and canons), omit “, provost” in each place it appears.

#### *Ecclesiastical Commissioners Act 1841*

- 2 In section 13 of the Ecclesiastical Commissioners Act 1841 (dealings with property held in trust for Durham University), any reference to the dean and chapter of Durham Cathedral which, by virtue of section 36(1) of the Cathedrals Measure 1999, was to be read immediately before the commencement of this paragraph as a reference to the corporate body of that cathedral is to be read as a reference to the Chapter of the cathedral in its capacity as the body corporate for the cathedral.

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*Ecclesiastical Houses of Residence Act 1842*

- 3 In section 8 of the Ecclesiastical Houses of Residence Act 1842 (application of trust property), omit “dean, and”.

*Universities and College Estates Act 1925*

- 4 In section 37 of the Universities and College Estates Act 1925 (power to transfer advowsons, etc. gratuitously), after “a bishop,” insert “Chapter,”.

*Ecclesiastical Commissioners (Powers) Measure 1936*

- 5 In section 2 of the Ecclesiastical Commissioners (Powers) Measure 1936 (schemes for re-endowing certain bishoprics)—
- (a) in subsection (3)(d), for “the cathedral council” substitute “the Chapter”, and
  - (b) in subsection (6), for “a dean and chapter” substitute “the Chapter”.

*Cathedrals Measure 1963*

- 6 The Cathedrals Measure 1963 is amended as follows.
- 7 Section 40 (Newcastle Chapter Endowment Fund) is repealed.
- 8 (1) Section 42 (appointment of additional canon at Oxford) is amended as follows.
- (2) In subsection (4), for “cathedral duties; sections 8(2) and (3), 21, 22 and 35(1) of the Cathedrals Measure 1999” substitute “cathedral duties within the meaning of the Cathedrals Measure 2021; and sections 14(2) to (5), 28(1) to (3) and 45(1) of that Measure”.
  - (3) In subsection (6), after “the passing of the Cathedrals Measure 1999” insert “, or the passing of the Cathedrals Measure 2021,”.
- 9 (1) Section 44 (Southwark) is amended as set out in sub-paragraphs (2) and (3).
- (2) Subsection (1) ceases to have effect.
  - (3) In subsection (2), for “section twenty of this Measure on the capitular body of the said cathedral church” substitute “sections 21 and 22 of the Cathedrals Measure 2021 (acquisition and disposal of land) on the Chapter of the cathedral church of Southwark”.
  - (4) In consequence of the repeal made by sub-paragraph (2), it is hereby declared that the cathedral church building of the diocese of Southwark is vested in the Chapter of the cathedral.
- 10 In section 52(1) (interpretation), omit the definition of “cathedral duties”.

*Leasehold Reform Act 1967*

- 11 (1) Section 31 of the Leasehold Reform Act 1967 (ecclesiastical property) is amended as follows.
- (2) In subsection (1)—
    - (a) for “a capitular body within the meaning of the Cathedrals Measure 1963” substitute “the Chapter of a cathedral”, and

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(b) for “the capitular body” substitute “the Chapter”.

(3) In subsection (2)—

- (a) omit “the Cathedrals Measure 1999 or”, and
- (b) after “the Church Property Measure 2018” insert “or the Cathedrals Measure 2021”.

(4) In subsection (3)—

- (a) for “the capitular body” substitute “the Chapter”, and
- (b) for “sections 21 and 23 of the Cathedrals Measure 1963” substitute “section 24 of the Cathedrals Measure 2021”.

#### *Sharing of Church Buildings Act 1969*

- 12 In section 10(2) of the Sharing of Church Buildings Act 1969 (cathedrals), for “The dean or provost and chapter of such a cathedral” substitute “The Chapter of such a cathedral or, in the case of the cathedral church of Christ in Oxford, the dean and canons”.

#### *Synodical Government Measure 1969*

- 13 In the Church Representation Rules, contained in Schedule 3 to the Synodical Government Measure 1969, in Rule 83 (interpretation), in paragraph (6), for the words from “section 9” to the end substitute “section 6(1) of the Cathedrals Measure 2021”.

#### *Ecclesiastical Offices (Age Limit) Measure 1975*

- 14 The Ecclesiastical Offices (Age Limits) Measure 1975 is amended as follows.
- 15 In section 3 (continuing in office after retirement age), in subsection (1)(b), omit “provost”.
- 16 In section 6 (interpretation), in the definition of “incumbent”, omit “or provost”.
- 17 In the Schedule (relevant offices), omit “or provost”.

#### *Incumbents (Vacation of Benefices) Measure 1977*

- 18 The Incumbents (Vacation of Benefices) Measure 1977 is amended as follows.
- 19 In section 6 (enquiry into whether incumbent unable to discharge functions because of age or disability), in subsection (2)(b), omit “, provost”.
- 20 In section 19 (meaning of “benefice”), for “dean or provost of a parish church cathedral within the meaning of the Cathedrals Measure 1963” substitute “dean of a parish church cathedral; and the reference to a parish church cathedral is to be read with section 40(2) of the Cathedrals Measure 2021”.

#### *Administration of Justice Act 1982*

- 21 In section 41 of the Administration of Justice Act 1982 (transfer of funds to Official Custodian for Charities or corporate body of cathedral etc.), after subsection (3) insert—

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“(4) The preceding provisions of this section cease to apply to the case of funds held in trust for a cathedral on the commencement in relation to that cathedral of the charity provisions within the meaning of section 53(7) of the Cathedrals Measure 2021”.

*Patronage (Benefices) Measure 1986*

- 22 In section 8 of the Patronage (Benefices) Measure 1986 (declaration of membership), in subsection (7), for paragraph (a) substitute—
- “(a) the Chapter of the cathedral of the diocese or, in the case of the cathedral church of Christ in Oxford, the dean and canons;”.

*Leasehold Reform, Housing and Urban Development Act 1993*

- 23 The Leasehold Reform, Housing and Urban Development Act 1993 is amended as follows.
- 24 (1) In Schedule 2, paragraph 8 (ecclesiastical landlords) is amended as follows.
- (2) In sub-paragraph (1)(a), for “a capitular body within the meaning of the Cathedrals Measure 1963” substitute “the Chapter of a cathedral”.
- (3) In sub-paragraph (2)—
- (a) omit “the Cathedrals Measure 1999 or”, and
- (b) after “the Church Property Measure 2018” insert “or the Cathedrals Measure 2021”.
- (4) In sub-paragraph (3)—
- (a) for “a capitular body” substitute “the Chapter of a cathedral”,
- (b) in paragraph (a), for “that body” substitute “the Chapter”, and
- (c) in paragraph (b), for “sections 21 and 23 of the Cathedrals Measure 1963” substitute “section 24 of the Cathedrals Measure 2021”.
- 25 In Schedule 14 (landlord’s right to terminate new lease on grounds of redevelopment), in paragraph 11(a), for “a capitular body within the meaning of the Cathedrals Measure 1963” substitute “the Chapter of a cathedral”.

*Clergy Discipline Measure 2003*

- 26 In section 42 of the Clergy Discipline Measure 2003 (special cases), in subsection (2) (a), for “the council of the cathedral church” substitute “the Chapter of the cathedral”.

*Dioceses, Pastoral and Mission Measure 2007*

- 27 Schedule 2 to the Dioceses, Pastoral and Mission Measure 2007 (contents of reorganisation schemes) is amended as follows.
- 28 In paragraph 1 (preliminary), omit the definition of “the 1999 Measure”.
- 29 (1) Paragraph 4 (provisions relating to cathedral church etc.) is amended as follows.
- (2) In sub-paragraph (3)—
- (a) in paragraph (a), for the words from “the 1999 Measure” to the end substitute “the Cathedrals Measure 2021”,



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- (b) in paragraph (c), for “under section 5 of the 1999 Measure” substitute “in accordance with section 3 of the Cathedrals Measure 2021”, and
  - (c) in paragraph (d), for “the 1999 Measure” substitute “the Cathedrals Measure 2021”.
- (3) In sub-paragraph (4), for “under section 5 of the 1999 Measure” substitute “in accordance with section 3 of the Cathedrals Measure 2021”.
- 30 In paragraph 5, in sub-paragraph (3)(b), for “section 5 of the 1999 Measure” substitute “section 3 of the Cathedrals Measure 2021”.

#### *Church of England (Miscellaneous Provisions) Measure 2010*

- 31 In section 10 of the Church of England (Miscellaneous Provisions) Measure 2010 (cathedrals), omit subsection (1) (which provides that the corporate body of a cathedral is not a charity).

#### *Care of Cathedrals Measure 2011*

- 32 The Care of Cathedrals Measure 2011 is amended as follows.
- 33 In each of sections 2(1) and (2A), 24(1) and 25(1) (references to property vested in corporate body), for “the corporate body”, in each place it appears, substitute “the Chapter”.
- 34 In section 9 (application to Cathedrals Fabric Commission), omit subsection (5) (which enables the Commission to ask the Chapter to consult the Council).
- 35 In section 26(5) (reports and inspections by architects and surveyors), for “section 20 of the [Cathedrals Measure 1999 \(1999 No.1\)](#)” substitute “section 27 of the Cathedrals Measure 2021”.
- 36 In section 27 (maintenance of records), for “section 20 of the Cathedrals Measure 1999” substitute “section 27 of the Cathedrals Measure 2021”.
- 37 In section 28 (reports by cathedral archaeologists), after subsection (3) insert—
- “(4) For the purposes of the application of subsection (1) by subsection (3), the reference to section 20 of the Cathedrals Measure 1999 is to be read as a reference to section 27 of the Cathedrals Measure 2021.”
- 38 In section 32(1) (interpretation)—
- (a) in the definition of “administrator of the cathedral”, for “under section 9(1) (e) of the Cathedrals Measure 1999” substitute “by virtue of section 5(1) (d) of the Cathedrals Measure 2021”,
  - (b) in the definition of “cathedral architect or surveyor of the fabric”, for “section 9(1)(f) of the Cathedrals Measure 1999” substitute “section 5(1) (e) of the Cathedrals Measure 2021”,
  - (c) in the definition of “Chapter”, for “section 2 of the Cathedrals Measure 1999” substitute “section 2 of the Cathedrals Measure 2021”, and
  - (d) omit the definition of “corporate body”.

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#### *Mission and Pastoral Measure 2011*

- 39 In paragraph 6 of Schedule 3 to the Mission and Pastoral Measure 2011 (pastoral schemes and orders: vesting of property), in paragraph (b) of the proviso to sub-paragraph (1), for “the cathedral chapter” substitute “the Chapter of the cathedral”.

#### *Church of England Pensions Measure 2018*

- 40 In section 10 of the Church of England Pensions Measure 2018 (the responsible body), in subsection (2)(b), for “section 21 of the Cathedrals Measure 1999” substitute “section 28(1) or (2) of the Cathedrals Measure 2021”.

## **PART 2**

### PROCEDURAL RULES

#### *Clergy Discipline Rules 2005 (S.I. 2005/2022)*

- 41 In Rule 92 of the Clergy Discipline Rules 2005 (clergy serving in a cathedral), in paragraph (f)(ii), for “the relevant cathedral council” substitute “the Chapter of the relevant cathedral”.

#### *Care of Cathedrals Rules 2006 (S.I. 2006/1941)*

- 42 The Care of Cathedrals Rules 2006 are amended as follows.
- 43 In Rule 2(1) (interpretation)—
- (a) in the definition of “administrator”, for “under section 9(1)(e) of the Cathedrals Measure 1999” substitute “by virtue of section 5(1)(d) of the Cathedrals Measure 2021”, and
  - (b) omit the definition of “corporate body”.
- 44 In each of Rules 4(3) and 28(1) (references to property of corporate body), for “the corporate body” substitute “the Chapter”.
- 45 In Rule 14 (application to Cathedrals Fabric Commission), in paragraph (2)—
- (a) omit sub-paragraph (b) and the preceding “or”,
  - (b) omit paragraph (ii) and the preceding “, and”, and
  - (c) omit “or the Council’s views in paragraph (ii)” and “in question”.