



Church Property (Miscellaneous Provisions) Measure 1960

1960 No. 1 8 and 9 Eliz 2

PART III

ADDITIONAL POWERS RELATING TO CHURCH LAND

- 7 Powers of dealing with land granted under the Gifts for Churches Act 1803, the Gifts for Churches Act 1811 or the Consecration of Churchyards Act 1867.**
- (1) Subject to the provisions of this section, it shall be lawful for the person in whom any land granted under the ^{M1}Gifts for Churches Act 1803, the ^{M2}Gifts for Churches Act 1811 or the ^{M3}Consecration of Churchyards Act 1867 is vested to exercise thereover any of the powers exercisable by virtue of paragraphs (a), (b), (c) or (d) of subsection (1) of section seventeen of the ^{M4}New Parishes Measure 1943 over land acquired by the Commissioners or the Church Building Commissioners:
Provided that the said powers shall not be exercisable without the consent of the bishop, and the bishop shall not give his consent unless he is satisfied that the land, or the part of the land concerned, has not at any time been used, and is not likely to be used, for the purpose for which it was granted.
- (2) Where any land has been held by virtue of a grant by way of gift under the said Acts for less than twenty years, the person in whom the land is vested shall, before exercising any of the powers conferred on him by the last foregoing subsection offer to reconvey it to the grantor without consideration:
Provided that if the grantor refuses the offer or does not accept it within six weeks after it is made, or if a statutory declaration is made by the bishop that the grantor cannot be found, the land may be disposed of in accordance with the provisions of this section.
- (3) Where any land is sold under this section the proceeds of the sale shall be [^{F1}paid to the parsonages board or (if designated as such under section 1(1) of the Repair of Benefice Buildings Measure 1972) the diocesan board of finance (hereinafter in this Measure referred to as “the board”) of the diocese concerned and shall be applied by it] to such purposes, being purposes for the benefit of the benefice of the ecclesiastical

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district in which the land is situate or charitable purposes relating to that district, as may be agreed [^{F2}between the board]and the bishop after consultation with the person by whom the land was sold.

- (4) Land granted under the ^{M5}Consecration of Churchyards Act 1867 may be sold under this section notwithstanding the reservation by the grantor of a right of burial under section nine of that Act.
- (5) Nothing in this section shall authorise the sale or disposal of any consecrated land or affect the jurisdiction of the Consistory Court.
- [^{F3}(6) During a vacancy in a benefice any powers under this section which, but for the vacancy, would have been exercisable by the incumbent shall be exercisable by the bishop.]

Textual Amendments

- F1** Words in s. 7(3) substituted (1.1.2001) by 2000 Measure No. 1, s. 5, **Sch. 3 para. 2**; Instrument dated (14.12.2000) made by the Archbishops of Canterbury and York
- F2** Words in s. 7(3) substituted (1.1.2001) by 2000 Measure No. 1, s. 5, **Sch. 3 para. 2**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F3** S. 7(6) added by Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 (No. 1, SIF 21:1), s. 9

Marginal Citations

- M1** 1803 c. 108.
- M2** 1811 c. 115.
- M3** 1867 c. 133.
- M4** 1943 No. 1.
- M5** 1867 c. 133.

8 Provisions as to Covenants.

- (1) Where in pursuance of any Act or Measure land is acquired by the incumbent of a benefice in such a manner that it vests in the incumbent in right of his benefice the incumbent shall have power to enter into a covenant restrictive of the user of, or requiring the doing of any act in relation to, the land acquired or any other land vested in him in right of his benefice; and where in pursuance of any Act or Measure land vested in the incumbent of a benefice in right of his benefice is sold or otherwise disposed of, the incumbent shall have power to enter into a covenant restrictive of the user of, or requiring the doing of any act in relation to, any other land so vested; and any such covenant entered into under this subsection shall, unless the conveyance otherwise provides, be enforceable against the incumbent for the time being of the benefice in whom the land affected by the covenant is vested.
- (2) Where in pursuance of any Act or Measure the Commissioners [^{F4}or a board] acquire land which is to vest in the incumbent of a benefice in right of his benefice, or where an archbishop or a bishop or the guardian of the spiritualities acquires, sells, or otherwise disposes of land on behalf of the incumbent of a benefice during a vacancy in the benefice, the Commissioners, [^{F5}the board,] the archbishop, the bishop or the guardian of the spiritualities, as the case may be, shall have the same powers of entering into covenants as the incumbent has under the last foregoing subsection, and any covenant entered into under this subsection shall, unless the conveyance otherwise provides, be

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enforceable against the incumbent for the time being of the benefice in whom the land affected by the covenant is vested.

- (3) Where a covenant is entered into by the incumbent under subsection (1) of this section, the incumbent shall not be liable for any breach of the covenant which occurs after he has ceased to be the incumbent of the benefice, and where a covenant is entered into by the Commissioners or by [^{F4}a board,] an archbishop, a bishop or the guardian of the spiritualities under subsection (2) of this section, the Commissioners, [^{F5}the board]the archbishop, the bishop or the guardian of the spiritualities shall not be liable for any breach which occurs after the land has vested in the incumbent.

Textual Amendments

- F4** Words in s. 8(2)(3) inserted (1.1.2001) by 2000 Measure No. 1, s. 5, **Sch. 3 para. 3**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F5** Words in s. 8(2)(3) inserted (1.1.2001) by 2000 Measure No. 1, s. 5, **Sch. 3 para. 3**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

9 Power to take or grant easements.

- (1) The incumbent of a benefice, or during a vacancy the bishop, shall have power to take an easement for any estate or interest for the benefit of any land which forms part of the property of the benefice or to grant an easement over any such land:
Provided that the powers conferred by this section shall not be exercised without the consent of ^{F6} . . . , . . . ^{F7}, the ^{F8} . . . board and, where the power is exercised by the incumbent, the bishop.
- (2) The grant or taking of an easement under this section may be made either without monetary consideration or in consideration of the payment of a capital sum or of a periodic sum.
- (3) Any capital sum payable in respect of the grant of an easement under this section shall be paid to the [^{F9}board] to be applied for the purposes for which the proceeds of a sale of the land over which the easement is granted would be applicable.

Textual Amendments

- F6** Words in s. 9(1) omitted (1.1.2001) by virtue of 2000 Measure No. 1 s. 5 Sch. 3 para. 4; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F7** Words repealed by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 41(2), **Sch. 5**
- F8** Words in s. 9(1) omitted (1.1.2001) by virtue of 2000 Measure No. 1, s. 5, **Sch. 3 para. 4**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York
- F9** Words in s. 9(3) substituted (1.1.2001) by 2000 Measure No. 1 s. 5, Sch. 3 para. 4; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

Modifications etc. (not altering text)

- C1** S. 9(1) amended by Patronage (Benefices) Measure 1986 (No. 3, SIF 21:4), s. 34(2)(b)

10 Power to return to grantor gifts of sites for parsonage houses. **E**

Where any land acquired by way of gift, otherwise than under the ^{M6}New Parishes Measure 1943, for the site of the residence house of a benefice, or any part of that

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land, has not been used for the purpose for which it was acquired, and the incumbent considers that the land is no longer required for that purpose, the incumbent shall have power to reconvey that land or that part thereof to the grantor or his successors in title without consideration:

Provided that the power conferred by this section shall not be exercised without the consent of the bishop, [^{F10}and the board]

Textual Amendments

F10 Words in s. 10 substituted (1.1.2001) by Measure No. 1, s. 5, Sch. 3 para. 5; [Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York](#)

Marginal Citations

M6 1943 No. 1.

11 Power to dedicate land for highways.

(1) The incumbent of a benefice may dedicate for the purpose of a highway, either with or without consideration, any such land belonging to the benefice as is hereinafter mentioned, that is to say:—

(a) any land forming part of the garden, orchard or appurtenances of the residence house of the benefice and any land contiguous thereto, ^{F11} . . .

Provided that no land shall be dedicated under this section without the consent of the bishop, ^{F12} ^{F13} and [^{F14}the Board appointed or designated under section 1 of the ^{M7}Repair of Benefice Buildings Measure 1972]

(2) Any sum to be paid as consideration under this section shall be paid to the [^{F15}board] to be applied for the purposes for which the proceeds of a sale of the land would be applicable.

Textual Amendments

F11 Words from “ and (b) to benefice” omitted (1.1.2001) by virtue of Measure No. 1, s. 5, Sch. 3 para. 6(a); [Instrument dated 14.12.2001 made by the Archbishops of Canterbury and York](#)

F12 Words in s. 11(1) omitted (1.1.2001) by virtue of Measure No. 1, s. 5, Sch. 3 para. 6(a); [Instrument dated 14.12.2000 made by the the Archbishops of Canterbury and York](#)

F13 Words repealed by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\)](#), s. 41(2), [Sch. 5](#)

F14 Words substituted by virtue of [Repair of Benefice Buildings Measure 1972 \(No. 2\)](#), [s. 29](#)

It is provided that the words "diosesan dilapitations board" are substituted for the word "board" (1.1.2001) by Measure No. 1, s. 5, Sch. 3 para. 6(a); [Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York](#)

F15 Words in s. 11(2) substituted (1.1.2001) by Measure No. 1, s. 5, Sch. 3 para. 6(b); [Instrument dated 14.12.2001 made by the Archbishops of Canterbury and York](#)

Modifications etc. (not altering text)

C2 S. 11(1) amended by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\)](#), [s. 34\(2\)\(c\)](#)

Marginal Citations

M7 1972 No. 2.

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