



221st Report
Ecclesiastical Committee

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

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The Ecclesiastical Committee

The Ecclesiastical Committee is a statutory Committee appointed under the Church of England Assembly (Powers) Act 1919.

It comprises thirty members, fifteen of whom are Members of the House of Commons, appointed by the Speaker, and fifteen of whom are members of the House of Lords, appointed by the Lord Chancellor. The quorum is twelve.

Appointments to the Committee are generally made early in a Parliament. Unless the Speaker or the Lord Chancellor decide otherwise, members appointed by them remain on the Committee for the life of the Parliament.

While its powers are those laid down by the Act, its procedures are those of a Joint Select Committee.

Current Membership

HOUSE OF LORDS	HOUSE OF COMMONS
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Lord Elton	Mr Peter Bottomley
Lord Judd	Sir Sydney Chapman
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Baroness Wilcox	Mr Peter Pike
Lord Williams of Elvel	Mr David Taylor
	Mr Steve Webb

Remit

The Ecclesiastical Committee examines draft Measures presented to it by the Legislative Committee of the General Synod of the Church of England. It reports to Parliament on whether or not it considers the measures to be expedient.

It will generally ask members of the General Synod to assist it in its deliberations. In some circumstances a conference of the Ecclesiastical Committee and the Legislative Committee may be convened.

The Church of England Measure on which the Committee has reported is presented to both Houses in its final form at the same time as the Committee makes its report.

Before the Measure becomes law, both Houses must approve motions that the Measure should be presented to the Sovereign for Royal Assent in the form that it was laid before Parliament.

Once both Houses have passed the necessary approval motions, the Measure is presented for Royal Assent and becomes law.

Publications

The reports of the Committee are published by The Stationery Office by Order of both Houses. All publications of the Committee are on the internet at www.parliament.uk

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Report by the Ecclesiastical Committee on the Church of England (Miscellaneous Provisions) Measure

The Ecclesiastical Committee has met and considered the

CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) MEASURE

referred to it under the provisions of the Church of England Assembly (Powers) Act 1919.

1. The Measure is the eighth in a series of Miscellaneous Provisions Measures and contains a number of minor provisions which mostly relate to internal Church housekeeping matters. The provisions are helpfully summarised in the Comments and Explanations submitted to the Committee by the Legislative Committee of the General Synod.
2. The Committee is of the opinion that the Measure is expedient.

GENERAL SYNOD
LEGISLATIVE COMMITTEE
COMMENTS AND EXPLANATIONS
CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) MEASURE

INTRODUCTION

1. The Legislative Committee of the General Synod, having had referred to it a Measure entitled the Church of England (Miscellaneous Provisions) Measure, has the honour to submit that Measure to the Ecclesiastical Committee.

PART I: GENERAL COMMENTS

2. This Measure is the eighth in a series of Miscellaneous Provisions Measures dealing with uncontroversial matters which would not ordinarily merit free-standing legislation.
3. The following five provisions of the Measure are highlighted as the most significant:
4. **The Audit of the Church Commissioners.** At the suggestion of HM Treasury, the requirement that the Treasury appoint the auditor of the Church Commissioners ('the Commissioners') and direct the manner in which the audit of the Commissioners' accounts is to be undertaken will be removed. In future, the Commissioners' Audit Committee itself will have the responsibility both for appointing the auditor and directing the manner of the audit.
5. **The accounting regime for Parochial Church Councils.** In order to comply with the Charities Act 1993, a number of changes were made to Church law at the time relating to the obligations on PCCs in respect of the preparation and publication of accounts. Clause 4 of this Measure, together with changes being made to the Church Representation Rules by other legislation, will complete this process.
6. **The pension provisions for the First and Third Church Estates Commissioners.** The Measure amends the pension provisions for the First and Third Church Estates Commissioners, contained in the Church Property (Miscellaneous Provisions) Measure 1960. The current provisions were drafted nearly thirty years ago, and the opportunity is being taken to update them to correct a perceived unfairness.
7. **Diocesan secretaries.** The Measure provides that each diocese shall have a diocesan secretary. The diocesan secretary is required to be the chief administrative officer of the diocese, with the diocesan synod having the power to specify other functions to be undertaken by him or her.
8. **The removal of the Privy Council from confirming schemes made by the Commissioners under the Pastoral Measure 1983.** This change comes at the request of the Privy Council itself. It has the support of the Commissioners and the dioceses and is expected to result in the faster processing of pastoral and redundancy schemes in the future. It does not affect the existing rights of appeal to the Privy Council under the 1983 Measure.

SYNODICAL CONSIDERATION

First Consideration

9. At the November 2002 Group of Sessions the draft Measure was given First Consideration and automatically committed to a Revision Committee.

Revision Committee

10. The Revision Committee met once and agreed on a number of amendments to the draft Measure. These ranged from minor drafting points to the inclusion of new provisions (see Appendix I).

Revision stage in Full Synod

11. The Revision Stage in full Synod took place at the July 2003 Group of Sessions. No member indicated a wish to move an amendment and the Synod committed the draft Measure to the Steering Committee in respect of its final drafting.

Final Drafting and Final Approval

12. The Final Drafting and Final Approval took place at the February 2004 Group of Sessions. The Steering Committee moved four Special Amendments, which were all carried by the Synod (see Appendix II).
13. Having carried the Special Amendments and a number of drafting amendments, the Synod proceeded to Final Approval and the Measure was finally approved on a division by Houses. The voting figures were as follows:

	Ayes	Noes
Bishops	23	0
Clergy	120	0
Laity	144	1

PART II: NOTES ON CLAUSES

14. **Clause 1 and Schedule 1** to the Measure amend the Parsonages Measure 1938.
15. **Paragraphs 1 and 2 of Schedule 1** clarify certain issues arising out of the changes to the 1938 Measure made by the Church of England (Miscellaneous Provisions) Measure 2000 ('the 2000 Measure'). They clarify, respectively, that the Commissioners' consent is not required for the demolition of a parsonage and that a 'connected person' for the purpose of the consent regime for disposals of parsonages includes an incumbent, a bishop and a member, officer, agent or employee of the PCC and of the DBF not just the close family of such a person.
16. **Paragraphs 3 and 6** extend to a parsonage acquired otherwise than under the 1938 Measure the application of the Parsonages Measure power to exchange property and to give a bishop's certificate, respectively.
17. **Paragraphs 4 and 5** clarify the procedure under the changes to the 1938 Measure made by the 2000 Measure. Paragraph 4 provides that the Commissioners will only consider a representation against the proposed application and distribution of sale proceeds made during the period specified in the prescribed form of notice. Paragraph 5 provides that any failure to comply with the provisions of the Measure does not invalidate a transaction as against a third party acquiring the property in good faith for money or money's worth.
18. **Paragraph 7** applies the provisions of section 12 of the 1938 Measure to a multi-parish benefice.
19. **Clause 2(a)** amends the requirement in the Church Commissioners Measure 1947 that either the Chairman or the Deputy Chairman of the Commissioners' Assets Committee must be present at any meeting of that Committee. The Assets Committee should be able to transact its business, despite the unavoidable absence of both the Chairman and Deputy Chairman. Clause 2(a) therefore provides that, should the Chairman and his or her deputy both be absent from any meeting of the Committee, the meeting may nevertheless proceed.
20. **Clauses 2(b) and 2(c)** amend, at the suggestion of HM Treasury, the arrangements for the appointment of the Commissioners' auditors, which is currently made at the direction of the Treasury. They provide that the Commissioners' Audit Committee, with the approval of the Board of Governors, will instead appoint the Commissioners' auditors and direct the manner in which the audit is to be conducted, which must be in accordance with generally accepted auditing standards.
21. **Clause 3** repeals the requirement in the Diocesan Stipends Funds Measure 1953 for each diocese to submit annually to the Commissioners and the Archbishops' Council copies of the audited capital and income accounts for the diocesan stipends fund.
22. **Clause 4** amends the provisions in the Parochial Church Councils (Powers) Measure 1956 relating to the preparation, audit and publication of the accounts of a parochial church council, and their submission to the annual parochial church meeting of the parish, so as to ensure consistency with

other provision made with regard to parish accounting requirements following the Charities Act 1993.

23. **Clause 5** amends the pension provisions for the First and Third Church Estates Commissioners, contained in the Church Property (Miscellaneous Provisions) Measure 1960. The Measure will require benefits payable under those provisions to be no greater than they would have been in similar circumstances, had the Estates Commissioner in question been a member of the Church Administrators Pension Fund. The Measure will, in addition, remove the current unfairness whereby (save in cases of permanent disability) no pension provision is available to these Estates Commissioners if they retire with less than five years' service. The Measure will give the Commissioners power to pay pension benefits to a First or Third Church Estates Commissioner who leaves office (for whatever reason) during the first five years of service (and to the widow or widower of such an Estates Commissioner who dies). The new provisions will only apply to First and Third Commissioners coming into office after the provision comes into effect; and in determining the amount of any pension benefits to be provided the Commissioners are required to have regard to any other pension benefits to which the First or Third Commissioner in question may be entitled from any previous service elsewhere.
24. **Clause 6 and Schedule 2**
25. These provisions make a number of amendments to the Repair of Benefice Buildings Measure 1972.
26. **Paragraph 2** ensures that a surveyor appointed for the purpose of the Measure has the appropriate professional qualifications and expertise.
27. **Paragraphs 3 and 4** are consequential on amendments made by the 2000 Measure to the Parsonages Measure 1938 under which disposals of parsonages that meet given criteria no longer require the Commissioners' consent. Paragraph 3 also makes changes that are consequential on an amendment to the Parsonages Measure 1938 made by clause 1 and Schedule 1 (under which the Commissioners' consent is not required to the demolition of a parsonage house).
28. **Paragraphs 5 to 9** implement accounting changes, giving dioceses flexibility in determining how expenditure under the 1972 Measure is met. This involves the parsonages fund, out of which such expenditure is currently met, being dissolved and the balances being paid into other accounts held for similar purposes, out of which such expenditure will be met in future.
29. **Paragraph 10** reflects the changes made by paragraphs 2 to 9, in relation to money received by dioceses, which will no longer be paid into the parsonages fund, being credited instead to other accounts held for similar purposes.
30. **Paragraph 11** amends a drafting anomaly in the 1972 Measure that arises from an amendment made by the Care of Churches and Ecclesiastical Jurisdiction Measure 1991. It clarifies the period within which an incumbent can make representations against a diocese's proposals to remedy unauthorised alterations to the parsonage.

31. **Clause 6(2)** provides that any scheme made by a diocesan synod under the 1972 Measure for its parsonages board will have effect subject to the amendments made by Schedule 2.
32. **Clause 7 and Schedule 3** amend the Endowments and Glebe Measure 1976.
33. **Paragraphs 2, 6 and 8 of Schedule 3** correct anomalies that arose from the amendments made by the 2000 Measure, some of which had the unintended effect of requiring the Commissioners' consent for more, rather than fewer, transactions. In particular, paragraph 2 brings the wording of the latter parts of section 20 of the 1976 Measure into line with the requirement in section 20(1) for the Commissioners' consent to a transaction. Paragraph 2(b) provides that the Commissioners' consent to a disposal of glebe is not required where the transaction proposed is a disposal to a tenant to which the tenant has a statutory right. Paragraph 2(c) requires the diocese to serve notice of a proposed glebe disposal on the parochial church council (in addition to the priest in charge or churchwardens) if there is no incumbent. Paragraph 2(d) amends an incorrect statutory reference made by the 2000 Measure. Paragraph 2(h) confirms that any failure to comply with the provisions of the Measure does not invalidate a transaction as against a third party acquiring the property in good faith for money or money's worth.
34. **Paragraph 3** enables a glebe house to be occupied rent-free by anyone declared by the bishop to be engaged in the cure of souls within the diocese.
35. **Paragraph 4** repeals the requirement for a diocesan board of finance to send to the Commissioners each year copies of the diocesan glebe and minerals accounts.
36. **Paragraph 5** amends the procedure for making parsonage property glebe by requiring notice to be given by the diocesan board of finance to the parochial church council (as well as to the incumbent) of any intended order to make parsonage property glebe, and of decisions on them by the Commissioners.
37. **Paragraph 7** makes an amendment consequential on the changes made by clause 8 and Schedule 4 to the procedure for making pastoral schemes.
38. **Clause 8 and Schedule 4** amend the Pastoral Measure 1983.
39. Paragraph 2 of Schedule 4 requires the Commissioners to send to English Heritage and the Joint Committee of the National Amenity Societies a copy of any draft scheme containing a declaration of redundancy.
40. **Paragraphs 3 to 8** remove the role of the Privy Council in approving schemes made by the Commissioners under the 1983 Measure for the purposes of pastoral reorganisation, thus allowing such schemes to be made more expeditiously. (This change is made at the suggestion of the Privy Council: the majority of the Council's routine business comes from the Commissioners under the 1983 Measure, which the Council has increasingly felt to be anomalous.) Existing rights of appeal to the Privy Council will remain unaffected.
41. **Paragraph 9** allows a bishop to amend by instrument a pastoral order setting up a plurality, provided the amendments are consequential on the termination of that plurality.

42. **Paragraph 10** requires the Advisory Board for Redundant Churches to give information and advice to the Commissioners in relation to a redundant church which the Churches Conservation Trust is proposing to acquire by way of gift under the amendment made by clause 8 and paragraph 11(b) of this Schedule.
43. **Paragraphs 11(a) and 11(b)** will allow greater access and use of buildings vested in the Trust by (respectively) enabling the provision of new and improved services and facilities and empowering the Trust to acquire by gift a former church already disposed of under the 1983 Measure. Paragraph 10 enables the Advisory Board for Redundant Churches to give information and advice in respect of such a building. Paragraph 11(d) provides that the Trust, in place of the Commissioners, will submit its annual report and accounts to the Secretary of State. Paragraph 13 provides that the Commissioners may make a redundancy scheme to vest a building in the Trust within six months of the declaration of redundancy.
44. **Paragraph 14(a)** requires the Commissioners to send to English Heritage and the Joint Committee of the National Amenity Societies a copy of any draft redundancy scheme.
45. **Paragraph 15** enables provision to be made by a redundancy scheme for demolition by a diocesan board of finance.
46. **Paragraph 16** gives flexibility to the Commissioners in determining how the Church's one-third share of the Trust's costs are met, while enabling sufficient funds to be paid into the Redundant Churches Temporary Maintenance Account to ensure continued assistance to dioceses in maintaining redundant church buildings.
47. **Paragraph 18** enables an automatic vesting in the incumbent of land appropriated by a scheme to parsonage use.
48. **Paragraphs 19 and 20** enable the Commissioners to acquire, and (if the building is subsequently vested in the Trust) to pass to the Trust, rights of access or other easements to a former church.
49. **Paragraph 21** repeals the requirement for a diocesan board of finance to submit annually to the Commissioners and the Archbishops' Council a copy of the diocesan pastoral account.
50. **Paragraph 22** extends the circumstances in which money from the Redundant Churches Temporary Maintenance Account may be used by a diocesan board of finance, to include the time before the making of a redundancy scheme.
51. **Paragraph 23** requires diocesan pastoral committees, boards of finance and redundant churches uses committees to provide information, where requested by the Commissioners, and to have regard to advice given by the Commissioners.
52. **Paragraph 24** defines, for the purposes of the Measure, 'English Heritage' and 'National Amenity Societies'.
53. **Paragraphs 26(a) and 26(c)** clarify that councils (whether team, group, district, joint or parochial) set up in a scheme or by bishop's instrument cannot last longer than five years.

54. **Paragraph 26(b)** will allow the diocesan board of finance to apply all or part of the proceeds of sale of any property it acquires for disposal under a scheme or order to the provision, restoration, improvement or repair of a house for anyone declared by the bishop to be engaged in the cure of souls within the diocese.
55. **Paragraphs 12, 14(b) to (e), 17 and 25** make changes to the procedures for making redundancy schemes corresponding to the changes made by Clause 8 and Schedule 4 to the procedure for making pastoral schemes.
56. **Clause 9** provides that each diocese shall have a diocesan secretary. The diocesan secretary is required to be the chief administrative officer of the diocese, with the diocesan synod having the power to specify other functions to be undertaken by him or her. This provision gives effect to a recommendation in the Report of the Review of Synodical Government in the Church of England, chaired by Lord Bridge of Harwich. It proposed that the diocesan secretary should have a legal *persona* to enable functions to be allocated to that office holder in law rather than being delegated to someone else or not being allotted to a specific office-holder, as is currently the case.
57. **Clause 10** makes a number of miscellaneous consequential repeals.
58. **Clause 11** deals with citation, commencement and extent.

CONCLUSION

59. The Legislative Committee hopes that the Ecclesiastical Committee will reach a favourable report on the Measure, but in the event of the Ecclesiastical Committee requiring further information or explanation, the Legislative Committee stands ready to provide this.

On behalf of the Committee

Brian McHenry

(Deputy Chairman)

30th June 2004

APPENDIX I – CONSIDERATION OF THE DRAFT MEASURE IN REVISION COMMITTEE

Clause 1 (Amendment of Parsonages Measure 1938)

The Committee made no amendments to clause 1 and agreed that clause 1 should stand part of the draft Measure.

Clause 2 (Amendment of Church Commissioners Measure 1947)

The Committee noted that Clause 2(c) of the draft Measure would remove, at the Treasury's suggestion, the requirement in section 11(2) of the Church Commissioners Measure 1947 that the Treasury appoint the auditor of the Commissioners and direct the manner in which the audit of the Commissioners' accounts is to be undertaken. Clause 2(b) of the draft Measure gave the Commissioners' Audit Committee the responsibility for appointing the auditor (with the approval of the Commissioners' Board of Governors). The Steering Committee proposed an amendment that would add to the Audit Committee's responsibilities the remainder of the role currently undertaken by the Treasury, i.e. that of directing the manner of the audit. The amendment also included an additional provision to ensure that the audit did not depart from accepted auditing standards – which, in practice, are likely to be represented by the principles and procedures contained in the Statements of Auditing Standards issued by the Auditing Practices Board.

The Committee accepted the Steering Committee's amendment to clause 2 and, no other amendments being proposed, agreed that clause 2, as amended, stand part of the draft Measure.

Clause 3 (Amendment of Diocesan Stipend Funds Measure 1953)

The Steering Committee proposed an amendment to substitute a new clause 3. The Committee noted that clause 3 of the draft Measure in its original form amended section 7 of the 1953 Measure so as to remove the obligation to send audited copies of the diocesan stipends funds accounts to the Commissioners each year. Having considered the point, the Archbishops' Council likewise did not wish to receive copies of these annual accounts, nor, as section 7 currently provides, to prescribe their format. This amendment accordingly provided for section 7 to be repealed in its entirety.

The Committee accepted the Steering Committee's amendment to substitute a new clause 3 and, no other amendments being proposed, agreed that clause 3, as substituted, stand part of the draft Measure.

Clause 4 (Amendment of the Parochial Church Councils (Powers) Measure 1956)

The Steering Committee proposed the insertion of a new clause into the draft Measure to amend section 8 of the 1956 Measure.

The Chief Legal Adviser explained to the Committee that, following the introduction of a new accounting regime for charities under what is now the Charities Act 1993, significant changes had been made to the accounting regime for PCCs. They involved changes both to the Church Representation Rules ('the CRRs') and the making of new regulations under the Rules ('the Church

Accounting Regulations’). However, no changes were made at that time to section 8 of the 1956 Measure, which imposed an obligation to submit accounts to the annual parochial church meeting (‘the APCM’) for approval and dealt with other matters, including the publication of accounts before and after the APCM. As a result, section 8 was now inconsistent in a number of respects with the CRRs and the Church Accounting Regulations, including as regards the precise nature of the publication requirements and the need for the APCM to approve the accounts. Under the proposed amendment, section 8 would continue to impose a duty to provide accounts to the APCM but would provide for the detailed provision for the form and content of those accounts, their auditing or independent examination and their publication to be made in the CRRs or the Church Accounting Regulations.

In discussion, the Committee accepted that what was being proposed was both desirable and uncontroversial, but was concerned to avoid specifying the accounting period of PCCs in primary legislation, lest it should be desired to amend it at any stage in the future. The Committee agreed, therefore, that the definition of a PCC’s ‘financial year’ should be provided in subordinate legislation (i.e. the CRRs or the Church Accounting Regulations), which could be amended more easily if required.

The Committee agreed to the insertion of the new clause 4 as proposed by the Steering Committee. In doing so, the Committee noted that the CRRs and the Church Accounting Regulations were not entirely satisfactory as regards their treatment of the publication of a PCC’s accounts. The Chief Legal Adviser confirmed to the Committee that further consideration was being given to appropriate amendments to the CRRs to rectify these deficiencies, which could be proposed for inclusion in the Church Representation Rules (Amendment) Resolution currently before a Revision Committee.

Clause 5 (Amendment of Church Property (Miscellaneous Provisions) Measure 1960

The Committee noted that the proposed amendment to section 20 of the Church Property (Miscellaneous Provisions) Measure 1960 (relating to the pensions of the First and Third Church Estates Commissioners) was designed to meet the current unfairness whereby no pension provision was available to these Estates Commissioners (except on the grounds of permanent disability) if they retired with less than five years’ service. The proposed amendments to section 20 of the 1960 Measure would not actually alter the amount of pension paid on qualification to receive a pension. They would simply extend the current pension entitlement (in proportion to what was currently payable under that section) to a First or Third Estates Commissioner who left for whatever reason during the first five years of service and to the widow or widower of such an Estates Commissioner who died. (Currently a widow’s pension was only paid to the widow of such an Estates Commissioner who died in service.)

The Steering Committee noted that the Commissioners made it clear in their replies to the recent Synod questions that the provisions in the 1960 Measure specified the maximum pension payable and that they had decided in 2001 that the level of pension actually paid should be calculated on the same basis as that used for staff of the National Church Institutions. The Commissioners had gone on to indicate their willingness to discuss with the Steering Committee the possibility of recommending to the Revision Committee that section 20 of the 1960 Measure be amended further to make it clear that the pension provision for

the First and Third Estates Commissioners would, in future, be commensurate with the pension provision for such staff. (The Commissioners had, in fact, already agreed that, once the changes already proposed in the draft Miscellaneous Provisions Measure were made, the holders of the two offices in question would be paid pensions at rates that corresponded with those payable to such staff.)

Having considered this with the Commissioners, the Steering Committee recommended to the Committee that the amendments proposed to section 20 in the original draft Measure be adjusted to ensure that the permitted maximum pension provision for the First and Third Estates Commissioners would be commensurate with that payable to staff under the provisions of the Church Administrators Pension Fund. The Steering Committee reported that the Commissioners would support this further amendment and that it was the view of the Steering Committee that, if such an amendment were to be made, these proposals would cease to be controversial.

The Committee accepted the Steering Committee's analysis and agreed to the amendment to clause 5 as proposed by the Steering Committee. No other amendments being proposed, the Committee agreed that clause 5, as amended, stand part of the draft Measure.

Clause 6 (Amendment of Repair of Benefice Buildings Measure 1972)

The Steering Committee proposed a new clause 6(1) to reflect a number of amendments to the 1972 Measure, recommended by a recent working party of the National Church Institutions and further proposed a new clause 6(2) to avoid the necessity for each diocese to amend the scheme made under section 1 of the 1972 Measure to accord with the amendments in the draft Measure. Instead, under clause 6(2), each existing scheme would simply be deemed to incorporate those amendments.

The Committee accepted the Steering Committee's amendment to substitute a new clause 6 and, no other amendments being proposed, agreed that clause 6, as substituted, stand part of the draft Measure.

Clause 7 (Amendment of Endowments and Glebe Measure 1976)

The Committee made no amendments to clause 7 and agreed that clause 7 stand part of the draft Measure.

Clause 8 (Amendment of Pastoral Measure 1983)

The Committee made no amendments to clause 8 and agreed that clause 8 stand part of the draft Measure.

Clause 9 (Diocesan Secretaries)

The Steering Committee reported to the Committee that the Synodical Government legislative drafting group had, as part of its recent work, considered a recommendation in the Bridge Report on Synodical Government that the diocesan secretary should have a legal *persona*. The rationale behind this proposal was that it would allow for specific tasks to be allocated in law to the diocesan secretary, rather than being delegated to someone else or not being allotted to a specific office-holder, as was currently the case. The drafting group had agreed that this proposal should be implemented, and accepted a draft

provision prepared by Standing Counsel which, to ensure the maximum degree of flexibility for dioceses, made it clear that the diocesan secretary was to perform not only the specified functions but also “such other functions as may be specified by the Diocesan Synod of the diocese”.

In discussion, the Committee considered the implications of the proposed sub-clause (5) of the new clause and particularly the words “the manner and terms of appointment of the diocesan secretary shall be such as may be determined from time to time by the diocesan synod”. Mr Simon Parton (the diocesan secretaries’ consultant) reported that practice as regards the process leading up to the appointment of a diocesan secretary and the identity of their employer varied from diocese to diocese. The Chief Legal Adviser confirmed to the Committee that this position would be unaffected by the wording of the proposed sub-clause, which would leave the choice of both the appointment process and the identity of the employer to the diocesan synod.

In the light of this, Mr Simon Parton informed the Committee that the diocesan secretaries would want to liaise together to produce some common guidelines for dioceses to use in applying this provision, including matters such as the identity of the employer of the diocesan secretary and the proper role for the bishop and his council in the appointments process. He agreed to circulate the draft clause to his colleagues as a first step to the preparation of these guidelines. The Committee also agreed that, given the involvement of the bishop in this process, it would be desirable to consult the Standing Committee of the House of Bishops on this proposal. This has been done and the Standing Committee has approved the proposal.

The Committee agreed to the insertion of the new clause 9 as proposed by the Steering Committee.

Clause 10 (Repeals)

The Committee agreed to the insertion of a new clause 10 as proposed by the Steering Committee, dealing with a number of repeals of enactments as specified in a new Schedule 5.

Clause 11 (Citation, commencement and extent)

The Committee agreed to amendments to this clause proposed by the Steering Committee relating to the application of the Measure to the Channel Islands and the Isle of Man. The Committee made no further amendments to clause 11 and agreed that clause 11, as amended, stand part of the draft Measure.

Schedule 1 (Amendment of Parsonages Measure 1938)

Paragraph 2

The Committee noted that the Commissioners currently needed to consent to disposals under the Parsonages Measure 1938 where given criteria were not met (e.g. where the disposal was to a connected person or the transaction was not recommended by a surveyor acting for the benefice). The Committee understood that the original new subsection (3AA) did not entirely reflect the wish of the Commissioners to retain their existing role in relation to disposals except where the only proposal was to demolish the parsonage. The Steering Committee therefore proposed a new subsection (3AA) to make this clear. The Committee agreed to that amendment being made.

Paragraph 3

The Committee also agreed to a drafting amendment proposed by the Steering Committee to insert the word “under” in the first sentence.

Paragraph 7

The Steering Committee also proposed an amendment to paragraph 7. It was explained to the Committee that this was thought to be a simpler and more accurate way of making the desired amendment, which was required because a benefice might comprise more than one parish. The Committee agreed that this amendment should be made.

No other amendments being proposed, the Committee agreed that Schedule 1, as amended, stand part of the draft Measure.

Schedule 2 (Amendment of Repair of Benefice Buildings Measure 1972)

The Steering Committee proposed the insertion of a new Schedule 2 containing amendments to the Repair of Benefice Buildings Measure 1972. The Committee had already accepted the need for this new Schedule in agreeing amendments to clause 5. The Committee noted that, with the exception of paragraph 11 (which constituted the original clause 5 of the draft Measure), the paragraphs in the new Schedule 2 reflected the recommendations of the recent staff review of the 1972 Measure. In particular:

- (a) paragraph 2 would ensure that a surveyor appointed for the purposes of the Measure would have the appropriate professional qualifications and expertise;
- (b) paragraphs 3 and 5 were consequential on the amendments made by the Church of England (Miscellaneous Provisions) Measure 2000 to the Parsonages Measure 1938, under which disposals of parsonages that met given criteria no longer required the Commissioners’ consent; and
- (c) paragraphs 6 to 10 would implement accounting changes recommended by the working party, by giving dioceses flexibility in determining how expenditure under the 1972 Measure was met. The parsonages fund (out of which such expenses were met currently) would be dissolved, and the balances paid into other accounts held for similar purposes, out of which such expenditure would be met in future.

The Committee also noted that further flexibility would be given to dioceses by the proposed new power to be inserted by paragraph 3 of Schedule 3 to the draft Measure into section 24 of the Endowments and Glebe Measure 1976. That would allow them to meet (in relation to any house occupied by a person declared by the bishop to be engaged in the cure of souls) the same expenses as they could already meet under the 1972 Measure for parsonages. Such expenses could be met from any funds available for use for that purpose.

On the amendment in paragraph 2, the Committee gave careful consideration to what the appropriate professional qualifications should be. Given the wide range of the work undertaken by diocesan surveyors, it thought it right to include a qualification appropriate to the construction profession and not to require any specialism on the part of chartered surveyors. In the interests of flexibility it also thought it desirable to give the Commissioners power to add to the possible range

of professional qualifications. Having consulted the Head of the Cathedral and Church Buildings Division of the Archbishops' Council, the Committee did not consider these proposals to present any difficulty from the point of view of equivalence with the professional qualifications required of those surveying cathedral and church buildings.

The Committee agreed to the insertion of Schedule 2 as proposed by the Steering Committee into the draft Measure.

Schedule 3 (Amendment of Endowments and Glebe Measure 1976)

Paragraph 2

Mr Humby spoke to an amendment he had submitted to paragraph 2(c). He noted that section 20(5) of the 1976 Measure required notice to be served on an incumbent where the diocese proposed any transaction in relation to diocesan glebe within his benefice and allowed the incumbent to make representations with respect to the transaction. He explained that his amendment would require a similar notice of a proposed transaction to be served on a PCC and would give the PCC a similar right to make representations.

The Steering Committee reported that it was the view of the Commissioners' Pastoral Division that, on the whole, an incumbent, when making representations under section 20(5), would speak for the PCC as well. The Pastoral Division had suggested that Mr Humby's amendment might therefore be an additional constraint on diocesan administration and consequently undesirable. On the other hand, the Steering Committee had been told that the Commissioners were proposing to suggest, in their response to the Pastoral Measure Review's second consultation, that the notice be served on the PCC in substitution for the incumbent and that a right to be consulted should be substituted for the right to make representations, where the glebe land in question was acquired after 1 April 1978 (the date on which glebe land transferred from benefices to dioceses under the 1976 Measure). The Steering Committee therefore suggested that Mr Humby's amendment might, if accepted, at least help to ease the way towards achieving that long-term intention. However, Standing Counsel had advised the Steering Committee that Mr Humby's amendment could be better made by the insertion of the words "and the parochial church council of the parish" into section 20(5) immediately before the words "a notice". In conclusion, therefore, the Steering Committee accepted the desirability of the principle lying behind Mr Humby's amendment but recommended to the Committee that it be implemented using the wording proposed by Standing Counsel.

Mr Humby indicated that he was content with the Steering Committee's recommendation and the Committee agreed to make the amendment to paragraph 2(c) using the wording proposed by the Steering Committee.

The Steering Committee proposed an amendment to further amend paragraph 2(c) in order to clarify that notice would be served on an incumbent under section 20(5) for any transaction for which the Commissioners' consent would be required, rather than for any transaction. The Steering Committee explained that the amended paragraph 2(c) would return the legislation to the position it was in before the amendments made by the Church of England (Miscellaneous Provisions) Measure 2000, which had had the unintended effect of requiring dioceses to undertake additional administration and serve notices prior to all

transactions rather than those of certain kinds only. The Committee agreed that this amendment should be made.

Paragraph 3

The Steering Committee proposed an amendment to paragraph 3 to insert a new headnote to section 24 of the 1976 Measure. This was consequential on the changes already proposed to section 24 by the draft Measure and the Committee agreed that it should be made.

The Steering Committee proposed an amendment to paragraph 3 to delete the words “(other than an incumbent)”. It was explained to the Committee that this amendment was proposed in order to achieve maximum flexibility: there might be circumstances in which the incumbent did not live in the official parsonage house, whether permanently or temporarily, and it would assist in such a case if a glebe house might be made available to them rent-free. (For example, although canon law generally requires an incumbent to reside in the area of his or her benefice, this may not always be feasible. Where there is no parsonage, Canon C25 (4) enables the incumbent to live in some fit and convenient house instead. The amendment proposed to section 24 of the 1976 Measure would allow a glebe house in the benefice to be used for such a purpose.) The Committee agreed to this amendment.

Paragraph 4

The Steering Committee proposed an amendment to paragraph 4. It was explained that the original paragraph 4 would amend section 26(3) of the 1976 Measure to provide that audited copies of the diocesan glebe and minerals accounts did not have to be sent to the Commissioners each year. The Steering Committee was bringing this amendment because, having considered the point, the Archbishops’ Council likewise did not wish to receive copies of these annual accounts, nor, as section 26(3) currently provided, to prescribe the format of the annual return in this regard. The amendment accordingly proposed that section 26(3) should cease to have effect in its entirety. The Committee agreed that this amendment should be made.

Paragraph 5

Mr Humby spoke to his amendment to insert in a new paragraph 5 to provide for the inclusion of the PCC amongst those to be consulted and notified. The Steering Committee supported Mr Humby’s amendment and reported that the Commissioners’ Pastoral Division had been consulted on Mr Humby’s amendment and had no difficulty with it.

In discussion, the Committee agreed with the recommendations of the Steering Committee and agreed that this amendment should be made.

No other amendments being proposed, the Committee agreed that Schedule 3, as amended, stand part of the draft Measure.

Schedule 4 (Amendment of Pastoral Measure 1983)

Paragraphs 3 to 8

The Steering Committee proposed an amendment to insert new paragraphs 3 to 8 into this Schedule. The Official Solicitor explained to the Committee that this

amendment had come at the request of the Privy Council itself and would remove the role of the Council in approving schemes made by the Commissioners under the Pastoral Measure 1983. She explained that the majority of the Privy Council's routine business came from the Commissioners under the 1983 Measure, which the Council increasingly felt to be anomalous. The Commissioners supported this view and, indeed, they and the dioceses would welcome the faster processing of pastoral schemes that would result from the removal of the Privy Council from the process. The Official Solicitor underlined to the Committee that this proposal in no way affected the existing rights of appeal to the Privy Council under the 1983 Measure.

In discussion, the Committee noted that no one would be losing any existing rights as a result of this proposed amendment. The Committee agreed that the amendment should be made.

Paragraphs 9 and 10

The Steering Committee proposed a drafting amendment to correct an error in the order of paragraphs 3 and 4 in the original Measure to re-order them (when renumbered) as paragraphs 10 and 9 respectively. The Committee agreed to this amendment.

Paragraph 11

The Steering Committee proposed an amendment to paragraph 11. This amendment recognised the fact that a failed use of a redundant church might not be the use originally permitted under the Pastoral Measure scheme but might, rather, represent a change of use authorised subsequently by a variation of the covenants imposed under section 62. The reference to the need to consult the bishop and the Advisory Board brought the provision into line for buildings that vested in the Churches Conservation Trust under the current provisions of the 1983 Measure. The Committee agreed that this amendment should be made.

Paragraphs 12, 14, 17, 22, 24 and 25

The Steering Committee proposed a series of amendments consequential on the Committee's earlier decision on the changed role of the Privy Council. The Committee agreed that all these amendments to paragraphs 12, 14, 17, 22, 24 and 25 should be made.

Paragraph 18

The Steering Committee proposed a drafting amendment to paragraph 18 and the Committee agreed that this should be made.

Paragraph 21

The Steering Committee proposed an amendment to paragraph 21. It was explained that this paragraph in the original Measure would have amended section 77(4) of the 1983 Measure to provide that audited copies of the diocesan pastoral account did not have to be sent to the Commissioners each year. Having considered the point, the Archbishops' Council likewise did not wish to receive copies of this account. The amendment would therefore remove the current roles of the Commissioners and the Council in this regard, while retaining the current obligation for the diocesan board of finance to lay a copy of the account before the diocesan synod. The Committee agreed that this amendment should be made.

Paragraph 26

The Steering Committee proposed an amendment to paragraph 26 to remove the words “(other than the incumbent)” that was consistent with the similar change made earlier by the Committee in relation to section 24 of the Endowments and Glebe Measure 1976. The Committee agreed that this amendment should be made.

No other amendments being proposed, the Committee agreed that Schedule 4, as amended, stand part of the draft Measure.

Schedule 5 (Repeals)

The Steering Committee proposed the insertion of a new Schedule 5 dealing with a number of repeals of enactments. The Committee had already agreed to the insertion of a new clause 10 referring to this Schedule and accordingly agreed to the insertion of Schedule 5 into the draft Measure.

Long Title

The Steering Committee proposed amendments to the Long Title of the draft Measure to -

- (a) substitute the word “repeal” for the word “amend” in the second line;
- (b) insert the words “to amend section 8 of the Parochial Church Councils (powers) Measure 1956;”;
- (c) delete the words “section 21” immediately before the words “the Repair of Benefice Buildings Measure 1972”; and
- (d) insert the words “to make provision for the appointment of diocesan secretaries” immediately before the words “and for purposes connected therewith”.

The Committee agreed that these amendments should be made.

APPENDIX II – SPECIAL AMENDMENTS CARRIED BY THE SYNOD AT FINAL DRAFTING

Clause 11

In subsection (4), **insert** the word “2,” after the word “sections” in the second line.

This amendment was moved, following consultation with the legal authorities in the Isle of Man, to ensure that the amendments to be made to the Church Commissioners Measure 1947 by section 2 of this Measure can apply to the Isle of Man, given that the 1947 Measure itself extends to the Isle of Man.

Schedule 2

In paragraph 2 for the words “member, fellow or professional associate” **substitute** the words “corporate member”.

This amendment was moved as a result of discussions with the Chartered Institute of Building and the Royal Institute of Chartered Surveyors. Both institutions were concerned that the wording employed in the original draft Measure could include those who were not fully qualified and proposed instead the use of the expression “corporate member”, which would exclude those who were not so qualified.

Schedule 5

At the beginning of the Schedule **insert** –

“1960 (8 & 9 Eliz. 2 No. 2) Church Property (Miscellaneous Provisions) Measure	In section 20, subsection (4).”.
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This amendment was moved to clarify that the existing section 20(4), which contains a spent repealing provision, will be repealed. It will be replaced by the new section 20(4) inserted by section 5(6) of this Measure.

Under the entry relating to the 1972 Measure, **insert** “In Schedule 1, paragraphs 2(6) and (7) and 3(b).” immediately under the words “Section 18.”

This amendment was moved as paragraphs 2(6) and (7) and 3(b) of Schedule 1 of the Repair of Benefice Buildings Measure 1972 relate to Parsonages Funds. As such, they will be obsolete following the abolition of such funds by the repeal of section 18 of the 1972 Measure (to be effected by paragraph 9 of Schedule 2 to this Measure).

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