

THE CARE OF CATHEDRALS MEASURE 1990

Amended text as at 1st January 2008

**Including the amendments made by the
CARE OF CATHEDRALS (AMENDMENT) MEASURE 2005**

**Together with extracts relating to the care
of cathedrals from the**

CATHEDRALS MEASURE 1999

Care of Cathedrals Measure 1990

[Amended text as at 1st January 2008]

Introductory Note

- 1 This document contains the text of the Care of Cathedrals Measure 1990 (“the 1990 Measure”) as it stands at **1st January 2008**, as amended by other legislation which has been passed since the 1990 Measure became law.
- 2 In particular, it shows the amendments made by the **Care of Cathedrals (Amendment) Measure 2005** (“the 2005 Measure”), which came fully into force on 1st January 2008. Apart from the changes mentioned in paragraph 3 below, new provisions which the 2005 Measure has inserted in the 1990 Measure or which it has substituted for existing provisions in the 1990 Measure are shown in **bold type**. (Section headings, whether or not they have been amended, are also shown in bold type.) Provisions in the 1990 Measure which have been repealed by the 2005 Measure or which the 2005 Measure has replaced by new provisions are shown [*in italics and square brackets*].
- 3 In accordance with the **Cathedrals Measure 1999**, as amended by the 2005 Measure, references in the 1990 Measure to the “administrative body” of a cathedral have been converted into references to the “Chapter”, and references to the “chapter clerk” have been converted into references to the “administrator” of the cathedral.
- 4 On 11th June 2008, a number of provisions of the **Dioceses, Pastoral and Mission Measure 2007** relating to the new **Church Buildings Council** will come into force. This new body will, among other things, take over the functions of the Council for the Care of Churches, and under section 62(4) of the 2007 Measure, all references in other legislation– such as the 1990 Measure – to the Council for the Care of Churches will be construed as references to the Church Buildings Council. Where this arises in the case of the 1990 Measure, (except in the case of provisions which are no longer force and in definition section – section 20) the words “Church Buildings Council” are shown in [*bold italics and square brackets*] in this document after the words “Council for the Care of Churches” and the change is also explained in a footnote.
- 5 Finally, the provisions relating to “**treasure**” in the 1990 Act came formally into force on 1st January 2008. However, they cannot be brought into operation in practice until a Government Order has been made under section 2(2) of the Treasure Act 1996. The timetable for this has yet to be confirmed.

CARE OF CATHEDRALS MEASURE 1990
(Amended to 1st January 2008)

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Care of Cathedrals Measure 1990

(1990 No. 2)

A Measure passed by the General Synod of the Church of England to make further provision for the care and conservation of cathedral churches [26th July 1990]

As amended by other legislation, including the
Care of Cathedrals (Amendment) Measure 2005
(2005 No. 2)

A Measure passed by the General Synod of the Church of England to amend the Care of Cathedrals Measure 1990 and the Cathedrals Measure 1999; and for connected purposes [24th March 2005]

GENERAL PRINCIPLE

1 Duty to have regard to cathedral's purpose

Any body on which functions of care and conservation are conferred by this Measure shall in exercising those functions have due regard to the fact that the cathedral church is the seat of the bishop and a centre of worship and mission.

APPROVAL REQUIRED FOR ALTERATIONS TO CATHEDRALS

2 Approval required for alterations to cathedrals

- (1) Subject to subsection (2) below and to sections 5 and 6 of this Measure, the Chapter of a cathedral shall not implement **or consent to the implementation of** any proposal—
 - (a) for the carrying out of works, **including works of repair or maintenance**, on, above or below land the fee simple in which is vested in the [*chapter of the cathedral church*] **corporate body**, being works which would materially affect —
 - (i) the architectural, archaeological, artistic or historic character of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
 - (ii) the immediate setting of the cathedral church, or
 - (iii) any archaeological remains within the precinct of the cathedral church, or
 - (b) for the sale, loan or other disposal of any object the property in which is vested in [*the chapter of the cathedral church, being an object of architectural, archaeological, artistic or historic interest,*] **the corporate body or which is in the possession or custody of the corporate body or to whose possession**

or custody the corporate body is entitled, being an object of architectural, archaeological, artistic or historic interest, including any object to which section 6A below applies, or

- (bb) for the carrying out of any work to any such object as is referred to in paragraph (b) above which would materially affect the architectural, archaeological, artistic or historic character of the object, or**
- (c) for the permanent addition to the cathedral church of any object which would materially affect the architectural, archaeological, artistic or historic character of the cathedral church,

unless the proposal has been approved under this Measure.

- (2) Subsection (1) above shall not apply in relation to anything which —
 - (a) is done by the Chapter in furtherance of its duties under the constitution and statutes of the cathedral church with respect to the ordering of services or otherwise in furtherance of the mission of the cathedral church,
 - (b) is of a temporary nature, and
 - (c) does not materially affect the fabric of the cathedral church.
- (3) Where a proposal has been implemented in contravention of this section, anything done in connection with such implementation may be approved under this Measure and, in that event, shall be deemed to have been done in compliance with this section¹.

ESTABLISHMENT AND FUNCTIONS OF THE CATHEDRALS FABRIC COMMISSION AND FABRIC ADVISORY COMMITTEES

3 The Cathedrals Fabric Commission for England

- (1) There shall be established a body to be called the Cathedrals Fabric Commission for England (in this Measure referred to as "the Commission") which shall have the functions assigned to it by this Measure.
- (2) It shall be the duty of the Commission —
 - (a) to give advice to the Chapter of a cathedral, and to the fabric advisory committee, on the care, conservation, repair or development of the cathedral church, **any buildings or archaeological remains within its precinct, the landscape and environment in which the cathedral church is situated and any objects referred to in section 2(1)(b) above;**
 - (aa) to give advice to bishops and to the Vicar-General's court when it is sought under the Care of Cathedrals (Supplementary Provisions) Measure 1994²;

¹ Section 2(3) inserted by the Care of Cathedrals (Supplementary Provisions) Measure 1994.

² Section 3(2)(aa) inserted by the Care of Cathedrals (Supplementary Provisions) Measure 1994.

- (b) to consider and determine any application made to it in accordance with the provisions of this Measure by the Chapter of a cathedral;
- (c) to promote co-operation between the Commission and organisations concerned with the care and study of buildings of architectural, archaeological, artistic or historic interest in England;
- (d) to assist the Chapters of cathedrals by participating in educational and research projects which in the view of the Commission will promote the care, conservation, repair or development of cathedral churches and their ancillary buildings; and
- (e) to maintain jointly with the Council for the Care of Churches [*Church Buildings Council*]³, a library of books, plans, drawings, photographs and other material relating to cathedral and other⁴ churches and the objects in them.

(2A) It shall also be the duty of the Commission to promote, in consultation with Chapters, fabric advisory committees and such other persons or organisations as it thinks fit, by means of guidance or otherwise, standards of good practice to be observed in relation to —

- (a) the matters referred to in subsection (2)(a) above;**
- (b) the role and duties of cathedral architects or surveyors of the fabric and cathedral archaeologists;**
- (c) the compilation, maintenance and dissemination of information of architectural, archaeological, artistic and historic interest concerning cathedral churches, buildings and archaeological remains within their precincts and any objects referred to in section 2(1)(b) above; and**
- (d) the form and content of the records required to be kept by the Chapter under section 14B(a) below.**

(3) The provisions of Schedule 1 to this Measure shall have effect with respect to the Commission.

4 Establishment of fabric advisory committees

(1) The Chapter of every cathedral and the Commission shall jointly establish a committee, to be called the fabric advisory committee, which shall have the functions assigned to it by this Measure.

(2) It shall be the duty of the fabric advisory committee —

³ As from 11th June 2008, the reference to the Council for the Care of Churches is to be read as a reference to the Church Buildings Council established by the Dioceses, Pastoral and Mission Measure 2007 – see section 62(4) of that Measure.

⁴ “and other” inserted by the Dioceses, Pastoral and Mission Measure 2007 (with effect from 1st January 2008).

- (a) to give advice to the Chapter of the cathedral on the care, conservation, repair or development of the cathedral church, **any buildings or archaeological remains within its precinct, the landscape and environment in which the cathedral church is situated and any objects referred to in section 2(1)(b) above;** and
 - (b) to consider and determine any application made to it in accordance with the provisions of this Measure by the Chapter of the cathedral.
- (3) The provisions of Schedule 2 to this Measure shall have effect with respect to fabric advisory committees.

5 Powers of fabric advisory committee in relation to application of section 2

[(1) The fabric advisory committee shall have power, after consultation with the Chapter and subject to the agreement of the Commission, to determine that section 2 of this Measure is not to apply to proposals of any class or description specified by the committee, and to vary or revoke any determination made under this subsection.

(2) If the Chapter wishes to have it determined whether a proposal is one to which section 2 of this Measure does not apply by virtue of subsection (1) above the fabric advisory committee shall have power to determine that question.]

(1) The fabric advisory committee shall have power —

- (a) **if requested to do so by the Chapter, to determine whether, under section 2(1) above, an application for approval of a proposal by the Chapter is required to be made; and**
 - (b) **after consultation with the Chapter and subject to the agreement of the Commission, to determine that section 2 above is not to apply to proposals of any class or description specified by the committee, and to vary or revoke any determination made under this paragraph.**
- (2) **If the Chapter wishes to have it determined whether a proposal is one to which section 2 above does not apply by virtue of subsection (1)(b) above the fabric advisory committee shall have power to determine that question.**
- (3) **Where the Commission has made a determination under section 6(2) below in relation to any matter, the fabric advisory committee shall not make a determination under subsection (1)(a) above in relation to the same matter.**

APPLICATIONS FOR APPROVAL

6 Body to which application for approval to be made

- (1) Any application for approval for a proposal shall be made to the Commission where —
 - (a) the proposal would involve —

- (i) the carrying out of works, **including works of repair or maintenance**, which would permanently alter the fabric of the cathedral church or any building within the precinct of the cathedral church which is for the time being used for ecclesiastical purposes, or
- (ii) the demolition of any part of the cathedral church or any such building, or
- (iii) the disturbance or destruction of any archaeological remains within the precinct of the cathedral church, or
- (iv) the sale, loan or other disposal of **or the carrying out of any work to any object for the time being designated under section 13(2) of this Measure in relation to the cathedral church as being of outstanding architectural, archaeological, artistic or historic interest, or**

(b) the Commission declares in writing that the proposal gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be determined by it,

and any application for approval for any other proposal **other than an application under section 6A(4)(a) below** shall be made to the fabric advisory committee.

(2) If the Chapter or the fabric advisory committee wishes to have it determined whether under subsection (1) above an application for approval is required to be made to the committee or to the Commission, the Commission shall have power to determine that question.

(2A) If the Commission considers that a proposal falls within subsection (1)(a) above, but that the proposal does not give rise to considerations of sufficient importance to require an application to be considered by it, it may make a declaration in writing to that effect and any application for approval of the proposal shall be made instead to the fabric advisory committee.

(2B) The Commission shall also have power, after consultation with any relevant Chapter and any relevant fabric advisory committee, English Heritage, the national amenity societies (or such person as the societies shall jointly appoint for the purposes of this section) and, in the case of a proposal of a kind described in section 2(1)(a) above, any relevant local planning authority, to determine that subsection (1)(a) above shall not apply to proposals of any class or description specified by the Commission in relation either to cathedrals generally or to such cathedrals as may be specified and to vary or revoke any determination made under this subsection and any application for approval of any such proposal shall be made instead to the fabric advisory committee.

(2C) If, following a request in writing from the Chapter of a cathedral, the Commission is satisfied —

- (a) that a proposal or intended proposal falls within section 2(1)(a)(ii) or (iii) above;**

- (b) that the proposal does not relate to the cathedral church or a building within the precinct of the cathedral church for the time being used for ecclesiastical purposes;
- (c) that planning permission, listed building consent or scheduled monument consent is required for the carrying out of all the works to which the proposal relates; and
- (d) that any considerations relevant to preserving the immediate setting of the cathedral church or any archaeological remains within the precinct of the cathedral church will be or have been adequately taken into account by the person or body responsible for granting the permission or consent;

the Commission may, after consulting the local planning authority, the fabric advisory committee and English Heritage, make a declaration in writing that no approval is required under this Measure for the proposal.

(2D) In subsection (2C) above "planning permission", "listed building consent" and "scheduled monument consent" have the meanings respectively assigned to them by section 336(1) of the Town and Country Planning Act 1990 (c.8), section 8(7) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9) and section 2(3)(a) of the Ancient Monuments and Archaeological Areas Act 1979 (c.46).

(3) Where, on an application made to the fabric advisory committee by virtue of subsection (1) above (not being an application in respect of which a determination has been made under subsection (2) above), at least three members of the committee present and voting determine that the proposal in question gives rise to considerations of such special architectural, archaeological, artistic or historic interest that the application should be determined by the Commission, the secretary of the committee shall refer the application to the Commission and shall notify the Chapter accordingly; and section 8 of this Measure shall apply in relation to that application.

(3A) Any application for approval in pursuance of section 2(3) above shall be made to the Commission⁵.

(4) Any application under this section shall be made in accordance with rules made under [*this Measure*] **section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 1)**.

6A Treasure⁶

(1) **This section applies to any object which would, but for an order under section 2(2) of the Treasure Act 1996 (c.24), be treasure within the meaning of that Act and which is found within the precinct of a cathedral.**

⁵ Section 6(3A) inserted by the Care of Cathedrals (Supplementary Provisions) Measure 1994.

⁶ The provisions relating to "treasure" in the 1990 Act came formally into force on 1st January 2008, but they cannot be brought into operation in practice until a Government Order has been made under section 2(2) of the Treasure Act 1996. The timetable for this has yet to be confirmed.

- (2) Where the administrator of the cathedral becomes aware that an object has been discovered which appears to be an object to which this section applies the administrator —
- (a) shall within fourteen days notify the Commission in writing of the discovery; and
 - (b) shall arrange for the object to be recorded in the inventory required to be compiled and maintained under section 13 below and designated as treasure in that inventory in accordance with directions issued by the Commission.
- (3) On receipt of a notification under subsection (2) above the secretary of the Commission shall report the discovery, in writing, to the Secretary of State or to such person or body as may be designated by the Secretary of State.
- (4) The Chapter of the cathedral shall —
- (a) before implementing any proposal for the sale, loan or other disposal of an object to which this section applies, apply to the Commission for approval, unless the Commission's approval is required under section 6 above; and
 - (b) before implementing any proposal for the sale or other disposal (other than a loan) of such an object, afford the British Museum or another registered museum nominated by the British Museum an opportunity of purchasing the object.
- (5) Rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 1) may prescribe the procedure to be followed in connection with any matters arising under this section and in particular shall make provision for determining the purchase price to be paid under subsection (4)(b) above and for the procedure for and the matters to be taken into account in arriving at the purchase price.
- (6) In subsection (4)(b) above "registered museum" has the meaning ascribed to it in the Code of Practice issued under section 11 of the Treasure Act 1996 or such other meaning as may be specified by the Secretary of State.

7 Applications for approval of fabric advisory committee

- (1) Where any application is made by the Chapter of a cathedral for the approval of the fabric advisory committee, the administrator shall display in the prescribed manner a notice in the prescribed form specifying the place where details of the proposal are available for inspection and stating that representations in writing with respect to the proposal may be sent to the secretary of the committee before the end of the prescribed period; and he shall also send such a notice —

[(a) to the Commission, and

(b) *if the application relates to a proposal of a kind described in section 2(1)(a) of this Measure, to the local planning authority.]*

(a) **to the Commission, and**

(b) **if the application relates to a proposal of a kind described in section 2(1)(a) above —**

(i) **to English Heritage,**

(ii) **to the national amenity societies (or such person as those societies shall jointly appoint for the purposes of this section), and**

(iii) **to the local planning authority.**

(2) After considering any representations made to it under this section, the fabric advisory committee shall determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval.

[(3) The secretary of the fabric advisory committee shall send notice of the committee's decision—

(a) to the Chapter of the cathedral, and

(b) to the Commission,

and the administrator shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection; and, if the decision relates to a proposal of a kind described in section 2(1)(a) of this Measure he shall also send a copy of it to the local planning authority.]

(3) **The secretary of the fabric advisory committee shall send notice of the committee's decision —**

(a) **to the Chapter of the cathedral,**

(b) **to the Commission, and**

(c) **to any body or person to whom notice of the application is required to be sent by virtue of subsection (1)(b) above,**

and the administrator of the cathedral shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection.

8 Applications for approval of Cathedrals Fabric Commission

(1) Where any application is made by the Chapter of a cathedral for the approval of the Commission the administrator shall —

(a) display in the prescribed manner, and

- (b) send to the fabric advisory committee, [*the Historic Buildings and Monuments Commission*] **English Heritage** and the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section),

a notice in the prescribed form specifying the place where details of the proposal are available for inspection and stating that representations in writing with respect to the proposal may be sent to the secretary of the Commission before the end of the prescribed period; and, if the application relates to a proposal of a kind described in section 2(1)(a) of this Measure, [*it*] **the administrator** shall also send such a notice to the local planning authority.

- (1A) Following receipt of the notice referred to in subsection (1) above, the secretary of the fabric advisory committee shall inform the Commission in writing whether the committee has considered the proposal and, if so, of its views.**
- (2) After considering any representations made to it under this section, the Commission shall determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval.
- (2A) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv) above the Commission may consult the Church Commissioners on any financial considerations (other than any which relate to the valuation of the object in question) which may be relevant to the proposal and on which the Commission considers it appropriate to receive the advice of the Commissioners and the Commissioners shall give such advice as they consider appropriate.**
- (2B) Before determining whether to give approval to any proposal for the sale, loan or other disposal of an object falling within section 6(1)(a)(iv) above the Commission may request the Chapter of the cathedral to —**
 - (a) consult the Council of the cathedral if it has not already done so; and**
 - (b) inform the Commission of the Council's views on the proposal.**
- (2C) If a meeting is arranged between the Commission and the Chapter of the cathedral to discuss the proposal the administrator shall notify the secretary of the fabric advisory committee of the meeting and the committee's representatives shall be entitled to be present at the meeting.**
- (3) The secretary of the Commission shall send notice of the Commission's decision —
 - (a) to the Chapter of the cathedral,
 - (b) to the fabric advisory committee,
 - (c) to [*the Historic Buildings and Monuments Commission*] **English Heritage**,
 - (d) to the national amenity societies (or such person as those societies may jointly appoint for the purposes of this section), and

- (e) *[to the Royal Commission on the Historical Monuments of England]* **if the decision relates to a proposal of a kind described in section 2(1)(a) above, to the local planning authority,**
- (f) **if the Commission has consulted the Church Commissioners on the proposal under subsection (2A) above, to the Church Commissioners,**

and the administrator shall display in the prescribed manner a copy of the notice sent to the Chapter under this subsection [*; and if the decision relates to a proposal of a kind described in section 2(1)(a) of this Measure, he shall also send a copy of it to the local planning authority*].

- (4) This section shall apply in relation to an application for approval in pursuance of section 2(3) above as it applies in relation to an application for approval of a proposal⁷.

APPEALS

9 Appeals to Cathedrals Fabric Commission

- (1) Where, on an application made by the Chapter for the approval of the fabric advisory committee, approval is refused or is given subject to conditions, the Chapter may within the prescribed period appeal to the Commission.
- (2) Where, on an application made by the Chapter for the approval of the fabric advisory committee, the application is not determined by the fabric advisory committee within the period of three months immediately following the making of the application, the Chapter may, by notice given within the prescribed period to the Commission, request that the application be dealt with by the Commission.
- (3) The Commission, on considering an appeal under subsection (1) above may reverse, confirm or vary the decision of the fabric advisory committee or any part thereof.
- (4) The Commission, on dealing with an application for approval under subsection (2) above, shall, after considering any representations made to the fabric advisory committee under section 7 of this Measure, determine whether to give its approval to the proposal, either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval; and any such determination shall have effect as if it had been given by the fabric advisory committee.

10 Commission of Review

- (1) Where —
 - (a) on an application for approval made to the Commission (including an application being dealt with by the Commission under section 9(2) of this

⁷ Section 8(4) inserted by the Care of Cathedrals (Supplementary Provisions) Measure 1994.

Measure), the Commission refuses to give its approval or gives approval subject to conditions, or

- (b) on an appeal to the Commission under section 9(1) of this Measure, the Commission refuses to give its approval or refuses to reverse or vary conditions subject to which approval was given by the fabric advisory committee,

the Chapter may, by notice given within the prescribed period to the registrar of the province in which the cathedral church is situated, request that the decision of the Commission be reviewed by a Commission of Review constituted under this section.

- (2) Where, on an application for approval made to the Commission (including an application being dealt with by the Commission under section 9(2) of this Measure) or on an appeal to the Commission under section 9(1) of this Measure, the application or appeal is not determined by the Commission within the period of three months immediately following the end of the period prescribed for the purposes of section 8 or section 9(1) or (2), as the case may be, the Chapter may, by notice given within the prescribed period to the registrar of the province in which the cathedral church is situated, request that the application or appeal be dealt with by a Commission of Review constituted under this section.
- (3) A Commission of Review shall be constituted of —
 - (a) the Dean of Arches and Auditor or a person appointed by him, being a person who is qualified under section 3(3) of the Ecclesiastical Jurisdiction Measure 1963 to be appointed Dean of the Arches and Auditor;
 - (b) one person appointed by the Archbishops of Canterbury and York, being a person who is or has been a dean, provost or residentiary canon of a cathedral church other than the cathedral church to which the application or appeal relates; and
 - (c) one person appointed by the Secretary of State [*for Culture, Media and Sport*]⁸, being a person who has special knowledge of the architecture, archaeology, art (including history of art) or history of cathedral churches;

but no person who has been a member of the Cathedrals Fabric Commission at any time during the preceding five years shall be appointed under paragraph (b) or (c) above.

- (4) A Commission of Review, on reviewing a decision of the Cathedrals Fabric Commission, may reverse, confirm or vary that decision or any part thereof.
- (5) A Commission of Review, on dealing with an application for approval under subsection (2) above, shall, after considering any representations made to the Commission under section 8 of this Measure, determine whether to give its approval⁹,

⁸ The words “the Secretary of State for Culture, Media and Sport” substituted for the original wording by the Secretary of State for Culture, Media and Sport Order 1997 (SI 1997 No. 1744).

⁹ Section 10(5) amended by the Care of Cathedrals (Supplementary Provisions) Measure 1994.

either unconditionally or subject to such conditions as it may specify, or whether to refuse to give its approval; and any such determination shall have effect as if it had been given by the Commission.

- (6) A Commission of Review, on dealing with an appeal under subsection (2) above, may reverse, confirm or vary the decision of the fabric advisory committee or any part thereof.
- (7) The decision of a Commission of Review shall be final.

10A Conditions applying to approval

- (1) **Any approval given to an application under this Measure shall lapse at the expiry of the period of ten years from the date on which notice of the decision is given to the Chapter, provided that the body which gave the approval may extend that period by such period as it may specify.**
- (2) **As soon as possible after the completion of any work for which approval has been given, the administrator of the cathedral shall notify the fabric advisory committee or the Commission, as the case may be, of the date of the completion.**
- (3) **In subsection (1) above, the reference to the date on which notice of the decision is given shall, in the case of an appeal to the Commission under section 9(1) above or an application for review by a Commission of Review under section 10(1) above, be construed as a reference to the date on which notice of the decision of the Commission or, as the case may be, of the Commission of Review, is given to the Chapter.**
- (4) **Subsection (1) above shall apply to approvals given before the date of the coming into force of section 9 of the Care of Cathedrals (Amendment) Measure 2005¹⁰ as if for the reference to ten years from the date referred to therein there were substituted a reference to ten years from the date of the coming into force of the said section 9.**

10B Registers of applications

- (1) **The Commission and any fabric advisory committee shall each keep a register, in the prescribed form, of applications for approval dealt with by them and shall make such arrangements as are prescribed —**
 - (a) **for inspection of the registers by any person;**
 - (b) **for the supply, on application by any person, of extracts of that part of the register which relates to an application for approval specified by that person;**

¹⁰ i.e. 1st January 2008.

- (c) for enabling the Commission or a fabric advisory committee to supply, if it thinks fit, copies of the whole register or further parts of it, on application by any person.
- (2) The Commission or any fabric advisory committee may impose a fee of a reasonable amount for the supply of copies of or extracts from the register under subsection (1) above and the amount charged may vary according to the circumstances.

10C Right of appeal by tenant

- (1) Where the Commission or a fabric advisory committee has refused approval for a proposal from a Chapter of a cathedral for the carrying out of works by a tenant for which the Chapter's consent is required or given approval subject to conditions, the tenant may, whether or not the Chapter has appealed against the refusal or the imposition of conditions, or requested that the decision be reviewed by a Commission of Review, as the case may be, within the prescribed period, appeal to the Commission (against a decision of a fabric advisory committee) or request that a decision of the Commission be reviewed by a Commission of Review constituted under section 10 above.
- (2) A tenant who appeals or requests a review under subsection (1) above shall give written notice of the appeal or review to the Chapter.
- (3) The Chapter shall be entitled to appear at the proceedings on any appeal or review under subsection (1) above.
- (4) Sections 9(3) and 10(4) above shall apply to an appeal or review under subsection (1) above as they apply to an appeal or review under those sections.

MISCELLANEOUS AND GENERAL

11 Further powers of the Cathedrals Fabric Commission

- (1) The Commission may, on receiving a request from the Council for the Care of Churches [*Church Buildings Council*¹¹], give advice to the Council with respect to works which are proposed to be carried out in relation to a church of the Church of England which is not a cathedral church.
- (2) The Commission—
 - (a) may, on receiving a request made with the approval of the Representative Body of the Church in Wales, give advice with respect to works which are proposed to be carried out in relation to a cathedral church in Wales; and

¹¹ As from 11th June 2008, the references to the Council for the Care of Churches are to be read as references to the Church Buildings Council established by the Dioceses, Pastoral and Mission Measure 2007 – see section 62(4) of that Measure.

- (b) may in exceptional circumstances, with the agreement of the governing body of the Church concerned and of [*the Standing Committee of the General Synod*] **the Archbishops' Council**¹², give advice in relation to works which are proposed to be carried out in relation to a cathedral church other than a cathedral church of the Church of England or the Church in Wales;

but it shall be a condition of giving any advice by virtue of this subsection that any expenses incurred by the Commission in giving that advice are reimbursed.

- (3) The Commission shall have power to exercise any functions in relation to moneys held by any other body or person for the benefit of cathedral churches generally, being functions delegated to it by that body or person.
- (4) For the purpose of exercising its functions under this Measure the Commission—
 - (a) may acquire books, plans, drawings, photographs and other material relating to cathedral churches; and
 - (b) may from time to time hold conferences for cathedral clergy and staff, cathedral architects **or surveyors of the fabric**, [*archaeological consultants*] **cathedral archaeologists** and others concerned with the care, conservation and maintenance of cathedral churches.

11A General duties of approval bodies

The Commission, any fabric advisory committee and any Commission of Review shall, without prejudice to the duty conferred upon them by section 1 above, in exercising any function conferred upon them by the preceding sections of this Measure, have due regard to the desirability of preserving—

- (a) **the fabric of the cathedral church and any features of architectural, archaeological, artistic or historic interest which it possesses;**
- (b) **the immediate setting of the cathedral church;**
- (c) **any building within the precinct of the cathedral church of architectural, archaeological, artistic or historic interest;**
- (d) **any archaeological remains within the precinct of the cathedral church;**
and
- (e) **any objects referred to in section 2(1)(b) above.**

¹² The relevant function of the Standing Committee of the General Synod was transferred to the Archbishops' Council, before the 2005 Measure, by the National Institutions of the Church of England (Transfer of Functions) Order 1998 (SI 1998 No. 1715).

12 Provisions as to cathedral architects or surveyors of the fabric and cathedral archaeologists

- (1) It shall be the duty of the Chapter of a cathedral to consult the Commission before appointing a cathedral architect *[under the Cathedrals Measure 1963]* **or surveyor of the fabric.**
- (2) It shall be the duty of the Chapter of a cathedral *[to appoint an archaeological consultant to the cathedral church]* **after consulting the Commission to appoint a cathedral archaeologist**, except in any case in which the Commission notifies the Chapter that in the view of the Commission the archaeological significance of that cathedral church does not justify such an appointment.

13 Inventories etc.

[(1) It shall be the duty of the Chapter of a cathedral to compile and maintain an inventory of all objects in the possession of the chapter which the fabric advisory committee considers to be of architectural, archaeological, artistic or historic interest, in accordance with rules made under this Measure, and to complete the compilation of that inventory before the expiration of the period of five years beginning with the date on which this section comes into force.]

- (1) **It shall be the duty of the Chapter of a cathedral to compile and maintain an inventory of all objects the property in which is vested in the corporate body or which are in the possession or custody of the corporate body or to whose possession or custody the corporate body is entitled which the fabric advisory committee considers to be of architectural, archaeological, artistic or historic interest in accordance with rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 1).**
- (1A) **The compilation of the inventory under subsection (1) above shall be completed within such period as the Commission, after consultation with the Chapter and the fabric advisory committee, determines, being such period as it considers reasonable, having regard to the particular circumstances of each case, and different periods may be specified by the Commission for different parts of the inventory.**
- (1B) **The Chapter shall make an annual report to the fabric advisory committee on the contents of the inventory or on progress made in compiling the inventory, which shall, in particular, certify the accuracy of the inventory or any part of it which has been compiled and describe any alterations which have been made to the inventory during the twelve months preceding the report.**
- (1C) **The first annual report required by subsection (1B) above shall be made within the period of twelve months beginning with the date of the coming into force of section 13 of the Care of Cathedrals (Amendment) Measure 2005¹³.**

¹³ i.e. 1st January 2008.

- (2) It shall be the duty of the fabric advisory committee of a cathedral church to designate those objects included in the inventory compiled and maintained for the cathedral church under subsection (1) above which the committee considers, after consultation with the Commission, to be of outstanding architectural, archaeological, artistic or historic interest.
- (3) It shall be the duty of the Chapter of a cathedral to prepare a plan indicating the extent of the land surrounding the cathedral church of which the fee simple is vested in the [*chapter*] **corporate body** and to complete the preparation of that plan before the expiration of the period of two years beginning with the date on which this section comes into force, and the administrator shall send the plan to the Commission.
- (4) On receiving a plan prepared by the Chapter under subsection (3) above, the Commission shall, after consultation with the Chapter, indicate thereon the precinct of the cathedral church for the purposes of this Measure **which shall consist of so much of the land referred to in subsection (3) above as, in the opinion of the Commission, is necessary to preserve or protect the architectural, archaeological, artistic or historic character of the cathedral church and of any buildings of architectural, archaeological, artistic or historic interest associated with it and of any archaeological remains associated with or situated in, under or near to the cathedral church or any such buildings and the setting of the cathedral church and any such buildings and remains; and in implementing the requirements of this subsection the Commission shall have regard to the context in which the cathedral church and any such buildings have developed over time.**
- (5) **The Chapter shall keep the plan prepared under subsection (3) above up to date and shall notify the Commission of any changes made to it, whereupon the Commission shall, after consultation with the Chapter, make any alterations to the precinct indicated on the plan which it considers appropriate, having regard to subsection (4) above.**
- (6) **The Commission may, after consultation with the Chapter, make such alterations to the precinct indicated on the plan prepared under subsection (3) above as it considers appropriate, having regard to subsection (4) above.**

[14 *Reports to be made and records kept by cathedral architects*

- (1) *It shall be the duty of the Chapter of a cathedral to arrange during the period of five years beginning with the date on which this section comes into force and during every subsequent period of five years, for the cathedral architect, in consultation with the archaeological consultant (if any), to make a report in writing to the Chapter on works which he considers will need to be carried out as soon as practicable in relation to the cathedral church and of the order in which he considers that they should be carried out; and the cathedral architect shall send a copy of every such report to the Commission.*
- (2) *It shall also be the duty of the Chapter of a cathedral to keep a record of all works carried out in relation to the cathedral church or in the precinct of a cathedral church.]*

14 Reports and inspections by cathedral architects or surveyors of the fabric

- (1) Subject to subsection (3) below, it shall be the duty of the Chapter of a cathedral to arrange during the period of five years beginning with the date on which this section comes into force¹⁴ and during every subsequent period of five years, for the cathedral architect or surveyor of the fabric, in consultation with the cathedral archaeologist (if any), to make a report in writing to the Chapter on any works which the architect or surveyor of the fabric considers will need to be carried out in relation to the cathedral church and any ancillary building and on the urgency with which the architect or surveyor of the fabric considers that they should be carried out; and a copy of that report shall be sent to the Commission.**
- (2) Subject to subsection (3) below, the reports referred to in subsection (1) above shall be based upon such inspection or inspections of the fabric of the cathedral church and any ancillary building as the cathedral architect or surveyor of the fabric considers necessary to enable the architect or surveyor of the fabric to fulfil the requirements of subsection (1) above.**
- (3) The first report referred to subsection (1) above made by a cathedral architect or surveyor of the fabric appointed after the date of the coming into force of section 14 of the Care of Cathedrals (Amendment) Measure 2005¹⁵ shall be based on a full and detailed inspection of the cathedral church and any ancillary building and shall be made within the period of two years beginning with the date of the appointment.**
- (4) In its application to a cathedral architect or surveyor of the fabric appointed after the first date referred to in subsection (3) above, subsection (1) above shall have effect so that the second and subsequent reports of the architect or surveyor of the fabric shall be made during the period of five years beginning with the date of the first report and every subsequent period of five years.**
- (5) The cathedral architect or surveyor of the fabric shall, within the period of twelve months beginning with the date of the coming into force of section 14 of the Care of Cathedrals (Amendment) Measure 2005¹⁶ and annually thereafter make, in consultation with the architect or surveyor appointed under section 20 of the Cathedrals Measure 1999 (if a different person) and the cathedral archaeologist (if any), a report in writing to the Chapter containing a summary of any works to the cathedral church and any ancillary building carried out during the preceding year, an account of progress made in giving effect to the recommendations made in the reports referred to in subsection (1) above and any other matters which the cathedral architect or surveyor of the fabric considers to be relevant to the care and conservation of the cathedral church.**
- (6) In this section "ancillary building" means any building which the Chapter may from time to time specify, being a building attached to or adjacent to the cathedral church and used for purposes ancillary to the use of the cathedral**

¹⁴ i.e. 1st January 2008.

¹⁵ i.e. 1st January 2008

¹⁶ i.e. 1st January 2008.

church, but excluding any building used wholly or mainly for residential purposes.

14A Reports by cathedral archaeologists

- (1) It shall be the duty of the Chapter of a cathedral which has appointed a cathedral archaeologist to arrange, within the period of two years beginning with the date of the coming into force of section 15 of the Care of Cathedrals (Amendment) Measure 2005¹⁷ for the cathedral archaeologist to assess those matters of archaeological interest which relate to the cathedral church and its precinct, including buildings and remains within the precinct and, in consultation with the cathedral architect or surveyor of the fabric and the architect or surveyor appointed under section 20 of the Cathedrals Measure 1999 (if a different person), to make a report in writing to the Chapter containing recommendations on how those matters should be managed, and on the compilation and maintenance of archaeological records relating thereto; and a copy of the report shall be sent to the Commission.
- (2) The cathedral archaeologist shall, within the period of twelve months beginning with the date of the coming into force of section 15 of the Care of Cathedrals (Amendment) Measure 2005 and annually thereafter, make in consultation with the persons referred to in subsection (1) above a report to the Chapter containing an account of progress made in fulfilling the recommendations of the report (if made) referred to in subsection (1) above and any other matters which the archaeologist considers to be relevant to the archaeological interest of the cathedral church and its precinct.

14B Maintenance of records

The cathedral architect or surveyor of the fabric and the cathedral archaeologist (if any) shall each, in consultation with the architect or surveyor appointed under section 20 of the Cathedrals Measure 1999 (if a person other than the cathedral architect or surveyor of the fabric) include in the annual report required to be made to the Chapter under section 14(5) or 14A(2) above advice as to those works carried out in the previous year of which a permanent record should in the opinion of the cathedral architect or surveyor of the fabric or cathedral archaeologist be maintained and it shall be the duty of the Chapter —

- (a) to have regard to that advice and, pursuant thereto, to make and maintain appropriate permanent records of any such works; and
- (b) during the period of five years beginning with the date of the coming into force of section 15 of the Care of Cathedrals (Amendment) Measure 2005¹⁸ and during every subsequent period of five years, to make a report in writing to the fabric advisory committee of the records made under paragraph (a) above and on the arrangements for maintaining those records and to send a copy of the report to the Commission.

¹⁷ i.e. 1st January 2008.

¹⁸ i.e. 1st January 2008.

15 Applications for listed building or scheduled monument consent

Where the Chapter of a cathedral proposes to make any application for —

- (a) listed building consent under section 55 of the Town and Country Planning Act 1971¹⁹, or
- (b) scheduled monument consent under section 2 of the Ancient Monuments and Archaeological Areas Act 1979,

in respect of any building or monument within the precinct of the cathedral church, the administrator shall send to the Commission a notice stating that representations in writing with respect to the proposed application may be sent to him before the end of the prescribed period.

[16 **Rules** - repealed by Care of Churches and Ecclesiastical Jurisdiction Measure 1991]²⁰

17 Saving

Nothing in this Measure shall dispense with any consent or approval which is required by or under the constitution and statutes of a cathedral church for anything done by the Chapter of that cathedral.

[18 *Power to exclude parish church cathedrals*

- (1) *Subject to subsection (2) below the Archbishops' Council may, on the petition of the Chapter of a parish church cathedral, by order direct that this Measure shall not apply to the parish church cathedral and that the parish church cathedral shall be subject to the faculty jurisdiction of the consistory court.*
- (2) *The Archbishops' Council shall not make an order under subsection (1) above unless it has consulted the Commission and the fabric advisory committee of the parish church cathedral and is satisfied that —*
 - (a) *the making of the order is appropriate having regard to the architectural, archaeological, artistic and historic character of the parish church cathedral; and*
 - (b) *appropriate arrangements will exist for the giving of advice to the Chapter on the care, conservation and repair of the parish church cathedral.*
- (3) *An order under subsection (1) above may include such provision as the Archbishops' Council considers necessary or expedient as to the performance of functions*

¹⁹ This has now been repealed and replaced by provisions in the Planning (Listed Buildings and Conservation Areas) Act 1990. By virtue of the Interpretation Act 1978, the reference in section 15(a) of the 1990 Measure is now to be read as a reference to the corresponding provision in the 1990 Act.

²⁰ The provisions on Rules are now to be found in sections 25 to 27 of the 1991 Measure.

conferred on archdeacons by any enactment in relation to the faculty jurisdiction of consistory courts.

- (4) *Where an order made under subsection (1) above is in force in relation to a parish church cathedral, section 10(2)(b) of the Cathedrals Measure 1963 shall not apply to the parish church cathedral, and any provision of the constitution and statutes of the parish church cathedral abolishing or excluding the faculty jurisdiction of the consistory court shall not have effect.*
- (5) *Where an order made under subsection (1) above has been in force in relation to a parish church cathedral for a period exceeding ten years, the Archbishops' Council may, on the petition of the Chapter of the parish church cathedral and after consultation with the Commission and the Diocesan Advisory Committee of the diocese in which the parish church cathedral is situated, by order revoke it.*
- (6) *An order made under this section shall be laid before the General Synod and shall not come into force until approved by the General Synod, whether with or without amendment.*
- (7) *The Statutory Instruments Act 1946 shall apply to an order approved by the General Synod under this section as if it were a statutory instrument and were made when so approved, and as if this Measure were an Act providing that any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.]*

19 Notices

All notices required to be given under this Measure shall be in writing and shall be in the prescribed form.

20 Interpretation

- (1) In this Measure, unless the context otherwise requires —

["administrative body"—

(a) in the case of a cathedral church in respect of which there is a corporate body known as the dean and chapter, means the body by which administrative functions in relation to the cathedral church are performed by virtue of paragraph (b) of section 7 of the Cathedrals Measure 1963;

(b) in the case of a parish church cathedral, means the body by which administrative functions in relation to the cathedral church are performed by virtue of paragraph (b) of section 8 of that Measure;]

["archaeological consultant" means a person who possesses such qualifications and expertise in archaeological matters as the Commission may recognise as appropriate;]

"administrator of the cathedral" means the person, by whatever name called, appointed under section 9(1)(e) of the Cathedrals Measure 1999;

"archaeological remains" means the remains of any building, work or artefact, including any trace or sign of the previous existence of the building, work or artefact in question;

"architect" means a person registered under the Architects Act 1997²¹;

["building" includes any structure or erection, and any part of a building as so defined]

“building” includes any monument or other structure or erection and any part of a building as so defined and "fabric" shall be construed accordingly;

"cathedral archaeologist" means the person appointed under section 12(2) above, by whatever name called, being a person who possesses such qualifications and expertise in archaeological matters as the Commission may recognise as appropriate;

["cathedral architect", in relation to a cathedral church, means the architect appointed under the Cathedrals Measure 1963, by whatever name called;]

"cathedral architect or surveyor of the fabric" means any architect or surveyor appointed by virtue of section 9(1)(f) of the Cathedrals Measure 1999, by whatever name called;

"cathedral church" means any cathedral church in the provinces of Canterbury and York, except—

- (a) the Cathedral Church of Christ in Oxford,
- (b) any cathedral church in the diocese of Sodor and Man or in the diocese in Europe, *[and*
- (c) *any cathedral church to which this Measure does not, for the time being, apply by virtue of an order made under section 18(1) of this Measure;]*

"Chapter" means the body of that name established by section 2 of the Cathedrals Measure 1999;

["the chapter"—

- (a) *in the case of a cathedral church in respect of which there is a corporate body known as the dean and chapter, means the dean and chapter; and*
- (b) *in the case of a parish church cathedral, means the cathedral chapter;]*

["chapter clerk" means the clerk to the administrative body, by whatever name called;]

²¹ The reference to the Architects Act 1997 substituted for the original wording by that Act.

"chartered building surveyor" means a member of the Royal Institution of Chartered Surveyors qualified as a chartered building surveyor;

"corporate body" means the body established under section 9(1)(a) of the Cathedrals Measure 1999;

"Council for the Care of Churches" means the body so named at the passing of this Measure or any body subsequently exercising the functions of that body under a different name or with a different constitution²²;

"English Heritage" means the Historic Buildings and Monuments Commission for England, known as English Heritage;

["the Historic Buildings and Monuments Commission" means the Historic Buildings and Monuments Commission for England;]

"Liturgical Commission" means the body so named at the passing of this Measure or any body subsequently exercising the functions of that body under a different name or with a different constitution;

"local planning authority" in relation to any area means the body exercising the functions of a local planning authority under section 55 of the Town and Country Planning Act 1971 in that area²³;

"national amenity societies" means the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings and the Victorian Society and such other body as may from time to time be designated by the Dean of the Arches and Auditor as a national amenity society for the purpose of this Measure²⁴;

["parish church cathedral" means any cathedral church other than one in respect of which there is a corporate body known as the dean and chapter;]

"precinct" in relation to a cathedral church means the precinct for the time being indicated on the plan required for that cathedral church by section 13[(3) and (4)] of this Measure;

"prescribed" means prescribed by rules made under section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991²⁵.

["the Standing Committee" means the Standing Committee of the General Synod.]

²² As from 11th June 2008, references to the Council for the Care of Churches in this Measure are to be read as references to the Church Buildings Council established by the Dioceses, Pastoral and Mission Measure 2007 – see section 62(4) of the 2007 Measure.

²³ This has now been repealed and replaced by provisions in the Planning (Listed Buildings and Conservation Areas) Act 1990. By virtue of the Interpretation Act 1978, the reference in section 20(1) of the 1990 Measure is now to be read as a reference to the corresponding provision in the 1990 Act.

²⁴ By an instrument dated 27th June 2006 the Twentieth Century Society was designated by the Dean of the Arches and Auditor as a national amenity society for the purposes of this Measure.

²⁵ The reference to section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 substituted by that Measure.

- (2) For the purposes of this Measure any object or structure permanently situated in **or affixed to** a cathedral church or any building within the precinct of a cathedral church shall be treated as part of that cathedral church or building **or of its fabric**, as the case may be.
- (3) For the purposes of this Measure a building shall be treated as being used for ecclesiastical purposes if it would be so used but for any works proposed to be carried out in relation to it.

21 Short title and commencement

- (1) This Measure may be cited as the Care of Cathedrals Measure 1990.
- (2) This Measure shall come into force on such date as the Archbishops of Canterbury and York may jointly appoint, and different dates may be appointed for different provisions²⁶.

SCHEDULES

SCHEDULE 1

Section 3

THE CATHEDRALS FABRIC COMMISSION FOR ENGLAND

Membership

- 1 The Commission shall consist of a chairman, a vice-chairman and twenty-two other members.
- 2 The chairman shall be a lay person appointed by the Archbishops of Canterbury and York after consultation with the Secretary of State [*for Culture, Media and Sport*]²⁷, and the vice-chairman shall be appointed by the Archbishops after consultation with the Archbishops' Council²⁸ and with such organisation as appears to the Archbishops to be representative of the deans [*and provosts*] of cathedral churches.
- 3 Seventeen members of the Commission shall be appointed by the Archbishops of Canterbury and York as follows —

²⁶ The Archbishops appointed 1st October 1990 as the date on which sections 13 and 16-21 came into force and 1st March 1991 as the date on which the remainder of the Measure came into force.

The Archbishops have made three instruments relating to the Care of Cathedrals (Amendment) Measure 2005: In summary, the effect of these instruments in relation to the amendments to the 1990 Measure was that: the amendments to section 8(3)(c) and section 12(1), some of the amendments to section 20(1) and the amendments to paragraphs 1-10 of Schedule 1 and Schedule 2 came into force on 7th February 2006

The provision not already in force came into force on 1st January 2008.

²⁷ The words “the Secretary of State for Culture, Media and Sport” substituted for the original wording by the Secretary of State for Culture, Media and Sport Order 1997 (SI 1997 No. 1744).

²⁸ The words the “Archbishops’ Council” substituted for the original wording by the National Institutions of the Church of England (Transfer of Functions) Order 1998 (SI 1998 No. 1715).

- (a) one member shall be appointed on the nomination of the House of Bishops from among the members of that House;
- (b) two members shall be appointed on the nomination of such organisation as appears to the Archbishops to be representative of the deans [*and provosts*] of cathedral churches and at least one of those two members shall be a dean [*or provost*] of a cathedral church;
- (c) [*two members shall be appointed on the nomination of the Council for the Care of Churches from among the members of that Council or a committee thereof*] **three members shall be appointed on the nomination of the Council for the Care of Churches [*Church Buildings Council*]²⁹, of whom two shall be selected from among the members of the Council or a committee thereof;**
- (d) two members shall be persons holding office [*as architects to cathedral churches who shall be appointed after consultation with the President of the Royal Institute of British Architects*] **as cathedral architects or surveyors of the fabric one of whom shall be appointed after consultation with the President of the Royal Institute of British Architects and the other shall be appointed after consultation with that President and the President of the Royal Institution of Chartered Surveyors;**
- (e) [*two members shall be architects, chartered building surveyors or chartered engineers, with experience of the care of historic buildings, who shall be appointed after consultation with the President of the Royal Institute of British Architects, the President of the Ecclesiastical Architects and Surveyors Association, the President of the Institution of Structural Engineers and the President of the Institution of Civil Engineers*] **one member shall be an architect or chartered building surveyor appointed after consultation with the President of the Ecclesiastical Architects and Surveyors Association and one member shall be a chartered engineer appointed after consultation with the President of the Institution of Structural Engineers and the President of the Institute of Civil Engineers, being persons with experience of the care of historic buildings;**
- (f) one member shall be a painter, sculptor or other artist, with experience of work for cathedral or other churches, who shall be appointed after consultation with the President of the Royal Academy of Art;
- (g) [*seven members shall be persons who between them have special knowledge of archaeology, architecture, archives, art, the care of books and manuscripts, history (including history of art and architecture) and liturgy (including church music) and of whom*] **six members shall be appointed as follows —**

²⁹ As from 11th June 2008, the references to the Council for the Care of Churches are to be read as references to the Church Buildings Council established by the Dioceses, Pastoral and Mission Measure 2007 – see section 62(4) of that Measure.

- (i) one shall be appointed after consultation with the Secretary of State *[for Culture, Media and Sport]*;³⁰
- (ii) one shall be appointed after consultation with the Chairman of *[the Historic Buildings and Monuments Commission]* **English Heritage**;
- [(iii) one shall be appointed after consultation with the Chairman of the Royal Fine Art Commission];*
- (iii) one shall be appointed after consultation with the President of the Council for British Archaeology and the President of the Society of Antiquaries of London;
- (iv) two shall be appointed after consultation with the Chairman of the Liturgical Commission; and
- (v) one shall be appointed after consultation with the Director of the Royal School of Church Music.

3A All the members of the Commission appointed in pursuance of paragraph 3(b) to (g) above shall be persons who between them have special knowledge of archaeology, architecture, archives, art, the care and conservation of books, manuscripts and other historic objects, history (including history of art and architecture) and liturgy (including church music).

4 Five members of the Commission, of whom at least one shall be a member of the Chapter of a cathedral, shall be elected by the General Synod from among its members, each person so elected having knowledge of the ways in which cathedral churches are currently used and of their contribution to the work of the Church of England.

5 No person who is a member of the Chapter or fabric advisory committee of any cathedral or a member or officer of a relevant committee of any designated organisation shall be eligible for appointment as the chairman or vice-chairman of the Commission.

6 The chairman and other members of the Commission shall hold office for five years beginning on *[the first day of March]* **the first day of May** in the year next following the year in which the General Synod is dissolved and a new Synod comes into being.

7 Any member of the Commission shall on ceasing to hold office be eligible for re-appointment **or re-election** unless he became such a member by virtue of re-appointment **or re-election** under this paragraph **or appointment under paragraph 7A below following re-election under this paragraph: [Provided that the Archbishops of Canterbury and York may, in exceptional circumstances, direct that a person who became such a member by virtue of re-appointment under this paragraph shall be eligible for re-appointment for a further term or terms.]**

7A Where a member of the Commission elected by the General Synod under paragraph 4 above has, following the dissolution of the Synod, not been re-elected to the new Synod, that person may be appointed by the Appointments Committee of the Church of England as a member and shall hold office until the

³⁰ See note 27 above.

thirtieth day of April following the year in which the new Synod comes into being.

Casual Vacancies

- 8 Where a casual vacancy occurs among the members of the Commission appointed by the Archbishops of Canterbury and York, the Archbishops, after such consultation as appears to them to be appropriate having regard to the knowledge or experience of the person whose place is to be filled, may appoint a person to fill the vacancy.
- 9 Where a casual vacancy occurs among the members of the Commission elected by the General Synod, the General Synod may elect one of its members to fill the vacancy, the person so elected having knowledge of the matters mentioned in paragraph 4 above.
- 10 Any person appointed or elected to fill a casual vacancy shall hold office only for the unexpired portion of the term of office of the person in whose place he is appointed or elected, **but shall be eligible for re-appointment or re-election for one further term of office in accordance with paragraph 7 above, and if the Archbishops of Canterbury and York so direct, shall be eligible for re-appointment or re-election for a second further term.**

Secretary

- 11 The Commission shall appoint a secretary to the Commission but no person shall be appointed who is a member or officer of the Chapter or fabric advisory committee of any cathedral or a member of a relevant committee of any designated organisation.

Committees

- 12 The Commission shall have power to appoint such committees as it considers expedient.
- 13 Persons who are not members of the Commission may be appointed to any committee thereof, but the number of such persons appointed to a committee shall be less than half the total number of members of the committee.

Proceedings

- 14 The quorum of the Commission shall be eight members.
- 14A The business of the Commission shall be decided by a majority of the members present and voting thereon and, in the event of an equal division of votes, the Chairman shall have a second or casting vote.**
- 15 Subject to paragraph 14 above, the Commission may act notwithstanding any vacancy in its membership.
- 16 The Commission shall have power to hold public hearings in connection with any matter to be considered by it for the purpose of receiving oral representations from

members of the public and may appoint a panel of not less than three members for the purpose of holding a public hearing on any matter specified by the Commission and reporting thereon to the Commission.

- 16A Where the Commission is considering an appeal under section 9 or 10C above no member of the Commission who is also a member of the fabric advisory committee against whose decision the appeal is brought shall participate in the proceedings.
- 17 Subject to the preceding provisions of this Schedule and to any directions as to procedure given by the General Synod, the Commission shall have power to regulate its own procedure.

Designated organisations

- 18 The Archbishops of Canterbury and York acting jointly may designate the organisations which are to be "designated organisations" for the purposes of paragraphs 5 and 11 above and may specify the committees of those organisations which are to be "relevant committees" for the purposes of those paragraphs.

SCHEDULE 2

Section 4

FABRIC ADVISORY COMMITTEES

Membership

- 1 The fabric advisory committee shall consist of —
- (a) not less than three nor more than five members appointed by the Chapter after consultation with the Cathedrals Fabric Commission, not being *[either]* members of the Chapter *[who are in Holy Orders or persons employed by the administrative body]* or **persons who are employed or hold paid office in the cathedral;**
 - (b) not less than three nor more than five members appointed by the Commission after consultation with the Chapter, being persons having special knowledge with respect to the care and maintenance of buildings of outstanding architectural or historic interest and a particular interest in the cathedral church concerned.

The number of members to be appointed by the Chapter and by the Commission shall be the same in each case and shall be determined, on each occasion when the committee is appointed, by the Chapter after consultation with the Commission.

- 2 The committee shall appoint a chairman from among its members.
- 3 *[The dean or provost of the cathedral church and the residentiary canons shall be entitled to attend, and to speak but not to vote at, meetings of the committee.]* **The dean of the cathedral, the administrator of the cathedral and such other**

members of the Chapter as the Chapter, after consulting the fabric advisory committee, considers appropriate, shall be entitled to attend, and to speak, at meetings of the committee or such meetings of the committee as may be specified by the Chapter, but no such person shall be entitled to vote.

- 4 It shall be the duty of the cathedral architect **or surveyor of the fabric** and the person (if any) holding office as *[archaeological consultant to the cathedral church]* **cathedral archaeologist** to attend meetings of the committee unless the chairman permits or directs otherwise.
- 5 No person who holds any paid office in the Commission shall be eligible for appointment as a member of the committee.
- 6 The members of the committee shall hold office for a period of five years but shall be eligible for reappointment.
- 7 The committee shall appoint some person, whether or not a member of the committee, to be secretary of the committee, **provided that, in the case of a member of the Chapter or a person who is employed or holds paid office in the cathedral, the committee shall have particular regard to the question whether there is any conflict of interests which would make it inappropriate to appoint that person as the secretary.**
- 8 Any expenses properly incurred by a member of the committee for the purposes of this Measure shall be reimbursed by the Chapter of the cathedral *[church]*.

Casual Vacancies

- 9 Where a casual vacancy occurs among the members of the committee, the body which appointed the person whose place is to be filled may **after carrying out the like consultation as was required when the appointment was made** appoint a person to fill the vacancy, and any person so appointed shall hold office for the unexpired portion of the term of office of the person in whose place he is appointed.

Procedure

- 10 The quorum of the committee shall be —
 - (a) six members, if the membership of the committee is ten;
 - (b) five members, if the membership of the committee is eight;
 - (c) four members, if the membership of the committee is six.
- 11 Subject to paragraph 10 above, the committee may act notwithstanding any vacancy in its membership.
- 11A The business of the committee shall be decided by a majority of the members present and voting thereon and, in the event of an equal division of votes, the chairman shall have a second or casting vote.**

- 12 The committee shall hold not less than two meetings each year, and if three or more members, by notice sent to the secretary of the committee, request that a special meeting be held, such a meeting shall be held within four weeks of the sending of that notice.
- 13 The secretary of the committee shall place on the agenda for the next meeting any matter requested by any member of the committee.
- 14 The secretary of the committee shall before each meeting send to the Chapter and to the Commission a copy of the agenda for that meeting and shall after each meeting send to the Chapter and to the Commission a copy of the minutes of that meeting.

Subject to the preceding provisions of this Schedule, the committee shall have power to regulate its own procedure.

APPENDIX

EXTRACTS FROM THE CATHEDRALS MEASURE 1999 relating to the care of cathedrals

4 The Chapter

.....

- (8) It shall be the duty of the Chapter to direct and oversee the administration of the affairs of the cathedral and in particular, without prejudice to the generality of the foregoing, to —

.....

- (g) manage all property vested in the cathedral 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,

.....

9 Further provisions required to be included in constitution³¹

- (1) The constitution of each cathedral shall —

.....

- (f) provide for the appointment of an architect or surveyor of the fabric for the cathedral,

.....

- (1A) The constitution of each cathedral shall provide that the architect or surveyor of the fabric appointed by virtue of subsection (1)(f) above shall be an architect or surveyor having such qualifications and expertise in matters relating to the conservation of historic buildings and other matters as the Chapter, after consultation with the Cathedrals Fabric Commission and such other persons or bodies as it thinks fit, considers appropriate to enable the role and duties of the post of architect or surveyor of the fabric to be discharged.**

.....

11 Statutes

The statutes of each cathedral shall make provision (being a provision which is consistent with the constitution) for the good government of the cathedral and may in particular, without prejudice to the generality of the foregoing —

- (a) provide for ... the title by which any dignity or office is to be known;

.....

³¹ Under paragraph 8(2) of Schedule 3 to the Care of Cathedrals (Amendment) Measure 2005, until the constitution of a cathedral has made the provision required by the amendments made by the 2005 Measure to section 9(1)(f) and 9(1A) of the 1999 Measure, the Chapter is to proceed as if the constitution of the cathedral had made such provision.

20 Inspection of cathedral property

- (1) It shall be the duty of the Chapter of each cathedral to arrange, during the period of five years beginning with the relevant date³² and during each subsequent period of five years, for an architect or surveyor to carry out an inspection of all property (other than the cathedral **and any ancillary building within the meaning of section 14(6) of the Care of Cathedrals Measure 1990**) which the Chapter is liable to repair and maintain, and to make a report in writing to the Chapter on [*works which he considers will need to be carried out as soon as practicable in relation to that property and of the order in which he considers they should be carried out*] **any works which the architect or surveyor considers will need to be carried out in relation to that property and of the urgency with which the architect or surveyor considers that they should be carried out.**

- (2) In the case of property within the precinct of the cathedral the report required by subsection (1) above shall be compiled in consultation with the [*archaeological consultant of the cathedral (if any)*] **cathedral archaeologist (if any) appointed under section 12(2) of the Care of Cathedrals Measure 1990**, and the Chapter shall send a copy of the report to the fabric advisory committee of the cathedral and to the Cathedrals Fabric Commission for England.

35 Interpretation

- (1) In this Measure, except where the context otherwise requires —

“architect” means a person registered under the Architects Act 1997;

.....

“precinct”, in relation to a cathedral, means the precinct for the time being indicated on the plan required for that cathedral by section 13(3) and (4) of the Care of Cathedrals Measure 1990;

.....

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

.....

³² “relevant date” in relation to a particular cathedral means the date appointed by the Archbishops of Canterbury and York on which the majority of the provisions of the 1999 Measure, and the constitution and statutes made under the 1999 Measure in relation to that cathedral, came into force (sections 35(1) and 38(2) of the 1999 Measure.)