

# Diocesan Boards of Education Measure 1991

(1991 No. 2)

## [as amended to the Education and Inspections Act 2006]

A Measure passed by the General Synod of the Church of England to make provision as to Diocesan Boards of Education [25 July 1991]

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### *Schedule: Diocesan Board of Education*

#### **1. Diocesan Boards of Education**

- (1) For every diocese there shall be a Diocesan Board of Education which shall have the functions assigned to it by this Measure and shall be responsible to the diocesan synod; and references in this Measure to “the Board” shall be construed as referring to the Diocesan Board of Education for the diocese concerned.
- (2) The Board shall be constituted in accordance with the provisions of Part I of the Schedule to this Measure, except that if the diocesan synod resolve that instead of being so constituted the Board shall be constituted in accordance with provisions agreed by that synod, the diocesan synod may with the consent of the bishop request the Secretary of State to make an order for the Board to be constituted in accordance with that resolution, and the Secretary of State upon receiving such a request may if he thinks fit make an order accordingly.
- (3) The Secretary of State may amend or revoke an order made under subsection (2)

above only upon a request made by the diocesan synod with the consent of the bishop of the diocese, and the amendment or revocation shall be in accordance with the resolution of that synod.

- (4) The bishop, after consultation with the Board, shall appoint a director of education for the diocese who shall act as secretary of the Board.
- (5) The Board may be body corporate or unincorporated.
- (6) The provisions of Part II of the Schedule to this Measure shall have effect with respect to the proceedings of the Board, whether the Board is constituted in accordance with the provisions of Part I of that Schedule or an order made by the Secretary of State.

## **2. Functions of Board**

- (1) The functions of the Board shall be -
  - a. to promote or assist in the promotion of education in the diocese, being education which is consistent with the faith and practice of the Church of England;
  - b. to promote or assist in the promotion of religious education and religious worship in schools in the diocese;
  - c. to promote or assist in the promotion of church schools in the diocese and to advise the governors of such schools and trustees of church educational endowments and any other body or person concerned on any matter affecting church schools in the diocese;
  - d. to promote co-operation between the Board and bodies or persons concerned in any respect with education in the diocese;
  - e. the functions assigned to the Board by this Measure; and
  - f. such other functions not contrary to this Measure as are assigned to the Board by the diocesan synod, other than functions relating to church schools or church educational endowments.
- (2) The Board shall have power to do all such things as are incidental or conclusive to the discharge of its functions.
- (3) The Board shall make to the diocesan synod, as soon as may be after the end of each year, a report on the exercise of its functions since the last report or (in the case of the first) since the Board's establishment.

### **3. Transactions for which advice or consent of Board is required**

- (1) The governing body or any church school, and the trustees of any church educational endowment held wholly or partly for or in connection with any church school, shall obtain the advice of the Board for the diocese in which the school is situated and shall have regard to that advice before -
- (a) publishing proposals for any prescribed alteration to the school -
    - i. in the case of a school in England, under section 19(3) of the Education and Inspections Act 2006 (“the 2006 Act”), or
    - ii. in the case of a school in Wales, under section 28(2)(b) of the School Standards and Framework Act 1998 (“the 1998 Act”);
  - (b) publishing proposals for the discontinuance of the school -
    - i. in the case of a school in England, under section 15(2) of the 2006 Act, or
    - ii. in the case of a school in Wales, under section 29(2) of the 1998 Act.
  - c. serving notice of an intention to discontinue the school under section 30(1) of the 1998 Act;
  - cc. consulting under section 89(2) of the 1998 Act about proposed admission arrangements for any school year;
  - d. in the case of a school in Wales, publishing proposals for changing the character of the school under paragraph 2 or 3 of Schedule 9 to the 1998 Act; or
  - e. making any application to, or entering any agreement with, any body or person for or in connection with any disposal (whether by sale or otherwise) of the premises of the school or any part of them.
- (1A) The governing body of a church school in England shall not, unless it has obtained the consent in writing of the Board for the diocese in which the school is situated, publish proposals under section 19 of the 2006 Act -
- a. where the school is a voluntary school, for a change of category to foundation school, or
  - b. where the school is a foundation school, for a change in the instrument of government which results in the majority of governors being foundation governors.

- (1B) Subsection (1)(a)(i) does not apply in any case where by virtue of subsection (1A) the consent of the Board is required.
- (2) Subject to subsection (3) below, the governing body of any church school which is a voluntary aided school shall not, unless it has obtained the consent in writing of the Board for the diocese in which the school is situated, enter into any agreement or arrangement with any body or person for or in connection with any alteration or repair of the premises of the school, being an alteration or repair in respect of which grant may be paid by the Secretary of State or of which the approval of the Secretary of State is required before it is carried out.
- (3) Subsection (2) above shall not apply in relation to any alteration or repair of premises of which the estimated cost is less than such amount as may from time to time be determined by the Board for the diocese in which the school is situated.

[(4) and (5) repealed]

- (6) Where the giving of advice under subsection (1) or consent under subsection (1A) or (2) above is to be considered at any meeting of the Board, at least fourteen days' notice of the time and place at which the meeting is to be held shall be given by the secretary of the Board to the clerk to the governing body of the school concerned, and the governors of that school shall be entitled to attend that meeting.

#### **4. Advice of Board, required for alteration of purposes of church educational endowments**

The trustees of any church educational endowment held wholly or partly for or in connection with a church school shall obtain the advice of the Board for the diocese in which the school is situated and shall have regard to that advice before making or agreeing to the making of any alteration in the purposes for which the endowment may be applied.

5. [Repealed]

#### **6. Board to be consulted in certain cases**

- (1) Without prejudice to section 392(2) of the Education Act 1996, a local education authority shall consult the Board for any diocese in which the authority exercises its functions before appointing a person to represent the Church of England as a member of a standing advisory council on religious education under section 390 of that Act.

(2) [Repealed]

#### **7. Powers of Board to give directions to governing bodies of aided church schools**

- (1) Where the Board is satisfied that the governing body of a voluntary aided church school in the diocese is discharging, or failing to discharge, its functions so far as relating to -
  - (a) the making of any prescribed alteration to the school -
    - i. in the case of a school in England, under Part 2 of the Education and Inspections Act 2006 (“the 2006 Act”), or
    - ii. in the case of a school in Wales, under Chapter 2 of Part 2 of the School Standards and Framework Act 1998 (“the 1998 Act”), or
  - (b) the discontinuance of the school -
    - i. in the case of a school in England, under Part 2 of the 2006 Act or section 30 of the 1998 Act, or
    - ii. in the case of a school in Wales, under Chapter 2 of Part 2 of the 1998 Act, or
  - c. in the case of a school in Wales, changing the school’s category in accordance with paragraph 2 or 3 of the Schedule 8 to the 1998 Act

is acting in a manner which is not in the interests of that school or of church schools generally, the Board may, subject to subsection (1A) below, give directions to the governing body as to the discharge of those functions.

- (1A) The Board may not, under subsection (1) above, give directions as to the publication of proposals under section 19(3) of the 2006 or paragraph 2 or 3 of Schedule 8 to the 1998 Act which would prevent the publication of proposals for the school to become a foundation school.
- (2) Where the giving of directions under subsection (1) above is to be considered at any meeting of the Board, at least fourteen days’ notice of the time and place at which the meeting is to be held shall be given by the secretary of the Board to the clerk to the governing body of the school concerned, and the governors of that school shall be entitled to attend that meeting; and no directions shall be given unless they have been approved by a two-thirds majority of the members of the Board present and voting at the meeting.
- (3) It shall be the duty of a governing body to comply with any lawful directions given to it under subsection (1) above and if, before the expiration of the period of six months beginning on the date on which the directions are given, the governing body fails to comply with directions with respect to any of the following matters, that is to say -

- (a) publication of proposals for any prescribed alteration to the school under section 19(3) of the 2006 Act or section 28(2)(b) of the School Standards and Framework Act 1998; or
- (b) in the case of a school in Wales, publication of proposals under paragraph 2 or 3 of Schedule 8 of the 1998 Act

the Board may itself publish those proposals, and the provisions of the 1998 and the 2006 Act shall apply to anything done by the Board by virtue of this subsection as if it has been done by the governing body of the school.

- (4) Where the Board gives any directions under subsection (1) above it shall cause a report thereon to be laid before the next meeting of the diocesan synod.
- (5) [Repealed]

## **8. Powers of Board to give directions to trustees of church educational endowments**

- (1) Where the Board is satisfied that the trustees of any church educational endowments held wholly for a church school in the diocese are discharging their functions in relation to the endowment in such a manner that the endowment is not being applied in the best interests of the school or that the trustees of any such endowment have failed to discharge their functions in relation to that endowment, the Board shall have power to give directions to those trustees as to the exercise of those functions; and it shall be the duty of the trustees to comply with those directions before the expiration of the period of six months beginning with the date on which directions are given.
- (2) Where the Board gives any directions under subsection (1) above it shall as soon as practicable cause a report thereon to be laid before the diocesan synod.

## **9. [Repealed]**

## **10. Interpretation**

- (1) In this Measure

“church educational endowment” means an educational endowment which includes among the purposes for which it may be applied religious education according to the faith and practice of the Church of England;

“church school” means a foundation or voluntary school which is a Church of England School as defined by section 142(1) of the School Standards and Framework Act 1998 or an Academy falling within subsection (1A);

“educational endowment” means an endowment which, or the income of which, may be applied for the purposes of education;

“endowment” includes property not subject to any restriction on the expenditure of capital.

- (1A) An Academy falls within this subsection if -
- (a) at least one member of the governing body is appointed to represent the interest of the Church of England;
  - (b) the premises provided for the Academy when first established were provided on trust that, in the event of the discontinuance of the Academy, the property concerned was to be held for, or sold and the proceeds of sale applied for, the benefit of the Church of England; or
  - (c) the premises provided for the Academy when first established were so provided on trust in connection with the provision of education, or the conduct of an educational institution, in accordance with the tenets of the Church of England.
- (2) [Repealed]
- (3) Expressions used in this Measure which are also used in the School Standards and Framework Act 1998 shall, unless the context otherwise requires, have the same meanings as in the Act.

## **11. Amendment and repeal**

- (1) In section 5(5) of the Parochial Church Councils (Powers) Measure 1956 -
- (a) for the words “diocesan education committee of the diocese” there shall be substituted the words “diocesan board of education for the diocese”; and
  - (b) the words from “In this subsection” to the end of the section shall be omitted.
- (2) The Diocesan Education Committees Measure 1955 is hereby repealed.

## **12. Transitional provisions**

- (1) Any diocesan education committee constituted, or deemed to be constituted, in accordance with the Schedule to the Diocesan Education Committees Measure 1955 shall, if in existence on the date on which this Measure comes into force, be deemed to be a Diocesan Board of Education constituted in accordance with Part I of the Schedule to this Measure and shall continue in existence until the 1<sup>st</sup> January next after the first elections of elected members of the Board held under Part I of the Schedule to this Measure.

- (2) Any diocesan education committee constituted in accordance with an order may by the Minister of Education or the Secretary of State under section 1 of the Diocesan Education Committees Measure 1955 shall, if that order is in force on the date on which this Measure comes into force, be deemed to be a Diocesan Board of Education constituted in accordance with an order made by the Secretary of State under section 1(2) of this Measure, and the order made under the said Measure of 1955 shall continue in force until -
- (a) such time as a new Diocesan Board of Education is constituted in accordance with Part I of the Schedule of this Measure or with an order so made; or
  - (b) on the expiry of the period of three years following the coming into force of this Measure,

whichever first occurs.

- (3) Any diocesan education committee which is deemed to be a Diocesan Board of Education by virtue of subsection (1) or (2) above shall not have power to give directions under section 7 or 8 of this Measure.

### **13. Short title, extent and commencement**

- (1) This Measure may be cited as the Diocesan Boards of Education Measure 1991
- (2) This Measure shall extend to the whole of the provinces of Canterbury and York, except the Channel Islands and the Isle of Man, but may be applied to the Channel Islands, as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either of them, in accordance with those Measures, and may be extended to the Isle of Man by or under Act of Tynwald.
- (3) This Measure shall come into force on such date as the Archbishops of Canterbury and York may jointly appoint.



## SCHEDULE

### DIOCESAN BOARD OF EDUCATION

#### PART I

##### Membership

(1) The Board shall consist of

(a) the bishop;

(b) two persons nominated by the bishop, each person so nominated being either a suffragan bishop or a full-time assistant bishop in the diocese or an archdeacon of an archdeaconry in the diocese;

(c) not less than fourteen or more than eighteen members elected in accordance with the provisions of paragraph 2 below;

(d) not less than four or more than eight members co-opted by the Board of whom

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(i) four members shall be persons with experience of church schools in the diocese, and

(ii) the other members (if any) shall be persons with experience of other areas of work with which the Board is concerned;

and the bishop may nominate two additional persons (whether in Holy Orders or not) to be members of the Board.

(2) Subject to paragraphs 3 below, the diocesan synod shall by resolution determine whether sub-paragraph (a), (b) or (c) of this paragraph is to apply in relation to the elected members of the Board, that is to say -

(a) such number of members as the diocesan synod may determine, not being less than fourteen or more than eighteen, shall be elected by the diocesan synod, and of those members -

i. at least two shall be clerks in Holy Orders beneficed or licensed in the diocese, and

ii. at least six shall be lay persons, and

iii. at least six shall be members of the diocesan synod; or

(b) such number of members as the diocesan synod may determine, not being less than two, shall be elected by the diocesan synod in respect of such archdeaconry in the diocese, the number to be so elected being determined so as to ensure that the total

number of elected members is not less than fourteen or more than eighteen, and of the members elected in respect of any archdeaconry -

- i. at least one shall be in Holy orders beneficed or licensed in the archdeaconry,
  - ii. at least one shall be a lay person, and
  - iii. at least one shall be a member of the diocesan synod; or
- (c) the elected members shall consist of -
- i. two members elected by the diocesan synod from among its own members, and of those two members one shall be a clerk in Holy Orders beneficed or licensed in the diocese and the other shall be a lay person, and
  - ii. one member, whether a clerk in Holy Orders or a lay person, elected by each deanery synod in the diocese from among its own members

and upon such a resolution being carried, the number of elected members of the Board, the eligibility of candidates for election and the synod by which they are to be elected shall be determined accordingly.

(3) Where the number of deaneries in a diocese is less than twelve or more than sixteen, paragraph 2 above shall have effect as if sub-paragraph (c) were omitted therefrom

(4) The Bishop shall be chairman of the Board except that, if he does not desire to be chairman, the Board after consultation with the bishop, shall appoint some other person (whether or not a member of the Board) to be chairman, and the person so appointed shall be an ex officio member of the diocesan synod

(5) The election of the elected members of the Board shall take place every three years in the same year as, but after, the election of members of the diocesan synod, except that where the diocesan synod determines that sub-paragraph (c) of paragraph 2 above is to apply to the Board the election of the elected members shall take place in the same year as, but after, the election of the deanery synods; and the elected members shall be elected in such manner as may be determined by the synod by which they are elected and shall begin to hold office on the 1<sup>st</sup> January next following their election.

(6) Where an elected member of the Board ceases to be a member of a diocesan or deanery synod then, notwithstanding that he was elected by reason of his membership of that synod, he shall continue, unless he resigns, to be a member of the Board for the remainder of the period of office for which he was elected.

(7) Any casual vacancy among the elected members of the Board shall be filled in such manner as may be determined by the diocesan synod.

(8) All members of the Board other than the bishop of the diocese shall cease to hold office on the 1<sup>st</sup> January on which the newly elected members begin to hold office, except that a member of the Board shall be eligible for re-election or re-appointment on the termination of any period of office.

(9) A person who is in receipt of any remuneration as an officer or member of the staff of the Board shall not be eligible for membership of the Board.

## **PART II**

### Proceedings

(10) The quorum of the Board shall be eight of which four shall be elected members.

(11) The Board shall meet on at least three occasions during a year, and an additional meeting shall be held if at any time eight or more members of the Board make a request in writing to the chairman for the holding of such a meeting.

(12) The Board may establish committees to assist in the discharging of its functions, and the membership of any committee established under this paragraph may include persons who are not members of the Board.

(13) Subject to paragraph 10 above, the validity of any proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any member.

(14) Subject to the preceding provisions of this Schedule and to any directions as to procedure given by the diocesan synod, the Board shall have power to regulate its own procedure and the procedure and membership of its committees.