

## Statutory Instrument 1994 No. 1771

### The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994

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## STATUTORY INSTRUMENTS

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**1994 No. 1771**

### **TOWN AND COUNTRY PLANNING, ENGLAND AND WALES**

#### **The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994**

*Made* 30th June 1994

*Laid before Parliament* 15th July 1994

*Coming into force* 1st October 1994

The Secretary of State for National Heritage, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 60(5) and (6), 75(7) and (8) and 93(6) of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>[1]</sup>, hereby make the following Order:

#### **Citation, commencement and supplementary provision**

1.—(1) This Order may be cited as the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994 and shall come into force on 1st October 1994.

(2) Nothing in this Order shall operate to require listed building consent or conservation area consent for works commenced, or for works in respect of which a contract has been made, before this Order comes into force.

#### **Interpretation**

2.—(1) In this Order, unless the context otherwise requires—  
"the Act" means the Planning (Listed Buildings and Conservation Areas) Act 1990;

"building" means an ecclesiastical building which is for the time being

used for ecclesiastical purposes;

"church building" means a building whose primary use is as a place of worship;

"ecclesiastical exemption" means the exemption of buildings from the provisions of sections 3, 4, 7 to 9, 47, 54, 59 and 74 of the Act by virtue of sections 60(1) and 75(1)(b) of the Act;

"the Measure" means the Care of Cathedrals Measure 1990<sup>[2]</sup>;

"the Methodist Church" means the Methodist Church as defined in section 2(1) of the Methodist Church Act 1976<sup>[3]</sup>;

"monument" includes a tomb, gravestone or other memorial and any kerb or setting forming part thereof.

- (2) Unless the context otherwise requires any reference in this Order to—
- (a) a numbered article or Schedule is a reference to the article of or Schedule to this Order so numbered; and
  - (b) a numbered paragraph is a reference to the paragraph so numbered in the article in which the reference appears.

### **Exclusion or restriction of ecclesiastical exemption**

**3.**—(1) Ecclesiastical exemption is excluded in respect of all buildings other than those falling within article 4 or 6.

(2) For buildings falling within article 4, ecclesiastical exemption is restricted to the extent set out in article 5.

### **Buildings retaining ecclesiastical exemption**

- 4.** Ecclesiastical exemption is retained for—
- (a) buildings within the faculty jurisdiction of the Church of England;
  - (b) buildings subject to the Measure;
  - (c) buildings of the Church in Wales vested in the Representative Body of the Church in Wales or any other representative body under section 13(2) of the Welsh Church Act 1914<sup>[4]</sup>;
  - (d) buildings held in trust by the diocesan trustees of a diocese of the Roman Catholic Church;
  - (e) buildings owned by or held in trust for or for the purposes of the Methodist Church or any connexional or local organisation of the Methodist Church;
  - (f) buildings held in trust for a Church in membership with the

Baptist Union of Great Britain or the Baptist Union of Wales by one of the trust corporations set out in Schedule 1 (whether alone or jointly with another person or persons); and  
(g) buildings situated within one of the Provinces of the United Reformed Church set out in Schedule 2 held on the trusts set out in Part I of Schedule 2 to the United Reformed Church Act 1972<sup>[5]</sup> or Part I of Schedule 2 to the United Reformed Church Act 1981<sup>[6]</sup>.

### **Extent of ecclesiastical exemption**

5.—(1) Subject to paragraphs (3) and (5), ecclesiastical exemption for buildings falling within article 4 is restricted, except in the case of buildings subject to the Measure, to

- (a) any church building;
- (b) any object or structure within a church building;
- (c) any object or structure fixed to the exterior of a church building; and
- (d) any object or structure within the curtilage of a church building which, although not fixed to that building, forms part of the land.

(2) In the case of buildings subject to the Measure, ecclesiastical exemption is restricted to—

- (a) any building, object or structure within the precinct of a cathedral church for the purposes of the Measure and enclosed within the red line shown on the plan relating to that cathedral church entitled "Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994", signed by an Assistant Secretary in the Department of National Heritage, dated 21st June 1994 and deposited with the local planning authority;
- (b) any church building, within the precinct of a cathedral church for the purposes of the Measure, which does not fall within sub-paragraph (a) above, and any object or structure within that church building, but excluding—
  - (i) any object or structure fixed to the exterior of that church building, and
  - (ii) any object or structure within the curtilage of that church building which, although not fixed to that building, forms part of the land; and
- (c) subject to paragraph (4), any monument which—
  - (i) does not fall within sub-paragraph (a) above,
  - (ii) is not itself a listed building (apart from any status as a listed building which it may have solely by being treated as

part of a cathedral church or other church building by virtue of section 1(5)(a) or (b) of the Act),

(iii) is within the precinct of a cathedral church for the purposes of the Measure, and

(iv) is situated in a churchyard, graveyard or other land which is or has been used for the purposes of burial.

(3) Subject to paragraph (4), ecclesiastical exemption is not retained by virtue of paragraph (1) in respect of—

(a) any object or structure fixed to the exterior of a church building; or

(b) any object or structure within the curtilage of a church building which, although not fixed to that building, forms part of the land,

where that object or structure is itself a listed building (apart from any status as a listed building which it may have solely by being treated as part of the church building by virtue of section 1(5)(a) or (b) of the Act).

(4) In paragraphs (2)(c) and (3), the reference to a monument or to an object or structure fixed to the exterior of a church building or within the curtilage of a church building does not include any object or structure which falls to be treated for the purposes of the Act as part of that monument, object or structure by virtue only of section 1(5)(a) or (b) of the Act.

(5) Exemption from the provisions of sections 7 to 9, 59 and 74 of the Act is restricted in respect of buildings falling within paragraphs (c) to (g) of article 4—

(a) to works carried out by or on behalf of a church or body, or a constituent part of a church or body, referred to in those paragraphs; or

(b) where the buildings are on any premises forming part of a university, college, school, hospital or public or charitable institution, to works carried out by or on behalf of the governing body or the trustees of that institution.

### **Peculiars and other special cases**

6.—(1) Ecclesiastical exemption is retained for buildings to which this article applies which do not fall within article 4.

(2) This article applies to—

(a) buildings within a peculiar of the Church of England;

(b) any building used for worship according to the rites, doctrinal standards, principles or usages of the Church of England, the Church in Wales, the Roman Catholic Church, the Methodist Church, the Baptist denomination or the United Reformed Church on any premises forming part of—

(i) a university, college, school, hospital or Inn of Court, or

- (ii) a public or charitable institution, other than one referred to in sub- sub-paragraph (i) above, if the premises in question do not consist solely of that building and its curtilage;
- (c) buildings owned by or held in trust for a religious community of the Church of England;
- (d) buildings owned by or held in trust for a Roman Catholic Religious Institute or Society of Apostolic Life;
- (e) buildings subject to a sharing agreement pursuant to the Sharing of Church Buildings Act 1969<sup>[7]</sup> made on behalf of one or more of the Churches referred to in sub-paragraph (b) above or any Church in membership with the Baptist Union of Great Britain or the Baptist Union of Wales; and
- (f) buildings used for worship according to the rites, doctrinal standards, principles or usages of the Church of Scotland, the Free Church of Scotland or the Free Presbyterian Church.

*Peter Brooke*

Secretary of State for National Heritage

30th June 1994

(signed by authority of the Secretary of State for Wales)

30th June 1994

*Sir Wyn Roberts*

Minister of State Welsh Office

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*Notes:*

[1] [1990 c. 9. back](#)

[2] 1990 No. 2. [back](#)

[3] 1976 c.xxx. [back](#)

[4] 1914 c. 91. [back](#)

[5] 1972 c.xviii. [back](#)

[6] 1981 c.xxiv. [back](#)

[7] 1969 c. 38. [back](#)

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Prepared 20th September  
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