

## GENERAL SYNOD

## DRAFT AMENDING CANON No. 36

## REPORT OF THE REVISION COMMITTEE

**Chair:** The Ven. Gavin Kirk, Archdeacon of Lincoln (Lincoln)

**Ex officio members**

**(Steering Committee):** The Rt Revd Dr Alan Smith, Bishop of St Albans (Chair)  
The Revd Dr Andrew Atherstone (Oxford)  
Mr Keith Cawdron (Liverpool)  
The Revd Prof. Mark Chapman (Oxford)  
Mr Timothy Hind (Bath & Wells)  
Mrs Sheri Sturgess (Truro)  
The Revd Dr Miranda Threlfall-Holmes (Durham)

**Appointed members:**

Canon Linda Ali (York)  
Mrs Enid Barron (London)  
Dr Andrew Bell (Oxford)  
Mr Andrew Gray (Norwich)  
Canon Elizabeth Holdsworth (Peterborough)  
The Revd Charles Skrine (London)  
The Revd Dr Rowan Williams (York)

**Consultant:** Mr Roland Callaby (Diocesan Registrar for the Dioceses of Bath & Wells and Bristol)

**Staff:**

The Revd Alexander McGregor (Deputy Legal Adviser)  
Mr Christopher Packer (Legislative Counsel)  
Mr Paul Stevenson (Senior Advisory Lawyer)  
Mr Sion Hughes Carew (Secretary)

*References in this report to “the Committee” are references to the Revision Committee.*

*References to paragraph numbers reflect the paragraph numbers in GS 2029 unless otherwise indicated.*

*Decisions taken by the Committee were taken unanimously unless otherwise indicated.*

1. Draft Amending Canon No. 36 (GS 2029) received first consideration at the July 2016 group of sessions. It makes amendments to Canon B 8 (Of the vesture of ordained and authorized ministers during the time of divine service) and B 38 (Of the burial of the dead). A full explanation of each provision of the Amending Canon was contained in the explanatory memorandum (GS 2029X).
2. The amendments it makes to Canon B 8 would permit the minister to dispense with any of the prescribed forms of vesture at the Holy Communion and at Morning and Evening Prayer on Sundays, subject to consultation with the parochial church council.

3. The amendments it makes to Canon B 38 would remove the requirement for the minister to use a special form of service approved by the bishop at the burial of a person who had died unbaptized, or “who being of sound mind [had] laid violent hands upon himself”, or who had “been declared excommunicate for some grievous and notorious crime and no man to testify to his repentance”. The minister would be required to use the form of service in the Book of Common Prayer or Common Worship unless he or she could not in good conscience do so (in which case the minister would have to inform the bishop and use a special form of service approved by the bishop).
4. The Revision Committee (“the Committee”) met on one occasion and completed its remaining business by correspondence under Standing Order 56(4).
5. The Committee received submissions from 19 members: 18 were received within the period allowed for submitting proposals for amendment; 1 was received shortly after the end of that period. The Committee decided to include the late submission in its consideration of the draft Amending Canon.
6. No member exercised the right under Standing Order 55 to attend the meeting of the Committee and speak to the member’s proposal.
7. In addition to dividing the Amending Canon into two Canons, the Committee made a number of amendments to particular provisions. The resulting two Amending Canons as amended by the Committee are set out in GS 2029A and GS 2029AA.
8. Appendix I to this report shows Canons B 8 and B 38 as now proposed to be amended.
9. Appendix II contains a summary of the amendments considered by the Committee as well as the Committee’s decision on each.

## **PROPOSAL TO DIVIDE THE CANON**

10. The following members of the Synod proposed that the draft Amending Canon should be divided so that paragraphs 1 and 2 took the form of separate amending Canons: **the Reverend Paul Benfield, Mr Andrew Gray, the Reverend Canon Pat Hawkins, the Archdeacon of London, the Dean of Southwark, the Reverend Neil Patterson, Brother Thomas Quinn, the Archdeacon of Southwark, the Reverend Canon Priscilla White.**
11. They proposed this on the basis that the two paragraphs of the amending Canon were concerned with unrelated matters and that the Synod’s decision whether to approve one of those matters should not impinge on the other. Some of them in particular pointed out that the provision made by paragraph 1 in relation to Canon B 8 was subject to the provisions of section 3 of the Church of England (Worship and Doctrine) Measure 1974 which require a special majority of two-thirds of those present and voting in each House at final approval. They were concerned that an inability to obtain that level of support for paragraph 1 should not prejudice the progress of paragraph 2 and the amendments it would make to Canon B 38.
12. **Mr Adrian Greenwood and Mr Carl Hughes** submitted that the Canon should not be divided. They did so on grounds of the additional costs and resources that would result.
13. The Committee was advised that the additional cost (for an additional set of Royal Letters Patent) that would be incurred, were the Canon to be divided, was relatively minor.

14. The Committee recognised that dividing the Canon might result in the ensuing, separate Canon concerning vesture failing to receive final approval, given the opposition some members had voiced to those provisions. But the Committee considered that it would be undesirable for both limbs of the Amending Canon to be lost only because some members might be opposed to one of them.
15. The Committee accordingly exercised its power under SO 56(3) to divide the draft Amending Canon into two Canons, paragraph 1 becoming a separate Amending Canon No. 36 and paragraph 2 becoming Amending Canon No. 37. As required by the Standing Order, the Committee then separately considered each Canon resulting from the division.
16. References in this report to paragraph numbers are, except where stated, references to the original paragraph numbers in Amending Canon No. 36 before it was divided.

## **AMENDING CANON NO. 36**

### **General**

17. The submissions of two members (The Reverend Barry Hill and Mr Clive Scowen) were expressly supportive of the amendments the Amending Canon would make to Canon B 8. Two members (The Reverend Canon Pat Hawkins and the Dean of Southwark) had indicated in their submissions that they did not support the amendment of Canon B 8 at all.
18. In the light of those submissions, the Committee considered whether it should, under Standing Order 57(2) include in its report advice that Amending Canon No. 36 should be withdrawn. The Steering Committee was opposed to doing so.
19. The Committee took the view that it should not include advice that Amending Canon No. 36 should be withdrawn. In reaching that conclusion the Committee had particular regard to the fact that the amendments to Canon B 8 that would be made by the Amending Canon had been brought forward at the specific request of the General Synod when at the July 2014 group of sessions it passed Canon Hobbs's private member's motion, calling for legislation to make the wearing of a prescribed form of vesture optional rather than mandatory.

### **Paragraph 1(1)**

20. No submissions had been received specifically in relation to this provision and the Committee made no amendments to it.

### **Paragraph 1(2)**

21. **The Reverend Paul Benfield** had raised a query about the meaning of "change the form of vesture" in paragraph 2 of Canon B 8 and whether it was clear that it was confined to changing from one form of prescribed vesture to another form of prescribed vesture; or included a change from the use of vesture to not using any form of vesture.
22. The Committee was advised that Mr Benfield's understanding – that paragraph 2 of Canon B 8 was concerned only with making a change from one form of prescribed vesture to another form of prescribed vesture – was correct. Dispensing with vesture altogether and wearing ordinary clothes did not amount to "chang[ing] the form of vesture". The Canon, as it would be amended by the Amending Canon, distinguished between the forms of vesture specified in the Canon (i.e. surplice, alb, scarf, stole etc.) and other forms of dress. In order to make this clearer, "specified in this Canon" was to be inserted in paragraph 2 of Canon B 8 after the words "change the form of vesture".

23. The Committee accordingly noted that if Canon B 8 were amended as provided for in Amending Canon No. 36 as drafted–
- a. it would continue to be the case that before a change from one form of prescribed vesture to another form of prescribed vesture could be made by the minister, he or she would first have to ascertain by consultation with the PCC that the change would be “acceptable” (subject to a reference to the bishop in the case of disagreement); but
  - b. a different test would apply where the minister proposed to dispense with vesture altogether; namely that the minister considered, after consulting the PCC, that the other form of dress adopted by him or her would benefit the mission of the Church in the parish.

The Committee returned to this issue in its consideration of paragraph 1(3) and (4) of Amending Canon No. 36 (see below).

### **Paragraph 1(3) and (4)**

24. **The Bishop of Salisbury** proposed a different approach for amending Canon B 8. In doing so, he expressed concerns about the proposed provisions for consulting the PCC and for requiring that any form of dress adopted instead of a prescribed form of vesture should be ‘seemly’.
25. His alternative approach involved replacing the amendments currently proposed to be made with an amendment which simply inserted the word “normally” after “the presiding minister shall” in paragraph 3 of Canon B 8 so that it would read–

*At the Holy Communion the presiding minister shall normally wear either a surplice or alb with scarf or stole. When a stole is worn ...*

He pointed out that this would bring paragraph 3 of Canon B 8 into line with paragraph 4 of that Canon (which provides that at Morning and Evening Prayer on Sundays the minister shall normally wear a surplice or alb with scarf or stole).

26. The Committee noted that the Bishop of Salisbury’s alternative approach would involve omitting all the other amendments proposed to be made to Canon B 8.
27. The Committee also noted that the effect of the amendment proposed by the Bishop of Salisbury would be different in substance from what was provided for in the draft Amending Canon. Because the Bishop of Salisbury’s alternative approach would require one of the prescribed forms of vesture to be worn ‘normally’ at the Holy Communion (or at Morning or Evening Prayer on Sundays), the minister would be able to dispense with those forms of vesture only on an **occasional** basis. It would not be open to the minister to adopt some other form of address at the Holy Communion (or at Morning or Evening Prayer on Sundays) on a general basis.
28. The Committee took the view that to amend the Canon in the way proposed by the Bishop of Salisbury would fail to deliver what the Synod had asked for when it passed the motion calling for this legislation to be introduced.
29. For that reason, the Committee rejected the Bishop of Salisbury’s proposed amendment.
30. **The Reverend Paul Benfield, Miss Emma Forward, Mr Andrew Gray, the Dean of Southwark and the Reverend Canon Simon Taylor** all proposed that paragraph 1(3) and (4) should be amended so that, where the minister proposed to adopt a form of dress other than one of the forms of vesture prescribed by the Canon, he or she should be required first to obtain the agreement of the PCC.

31. The Committee noted that those paragraphs as drafted would have required the minister to consult the PCC, but solely for the purpose of the minister coming to a view himself or herself as to whether adopting some other form of dress would benefit the mission of the Church in the parish.
32. The Committee noted that the existing provision in paragraph 2 of Canon B 8 which was concerned with changing from one form of vesture prescribed by the Canon to another form of prescribed vesture required the minister to “ascertain by consultation with the parochial church council that such changes will be acceptable”. It did not require that the minister obtain the *agreement* of the PCC; and nor was it, strictly, concerned with whether the changes would be acceptable to *the PCC*. Moreover, in the event of a disagreement, it was the bishop (and not the minister or the PCC) who determined the matter: the PCC did not have a veto.
33. In the light of that, the Committee considered that the application of a requirement that the minister should be required to obtain the agreement of the PCC before dispensing with the wearing of any form of prescribed vesture would go too far. Accordingly, it rejected the proposals for amendment which were to that effect.
34. However, the Committee agreed that a requirement only to consult the PCC did not go far enough. The Steering Committee suggested that there would be merit in imposing a requirement that was equivalent to the existing requirement contained in Canon B 8.2 (which requires the minister to ascertain, by consultation with the PCC, that the changes proposed would be ‘acceptable’).
35. The Committee agreed with the Steering Committee’s suggestion and accordingly amended paragraph 1(3) and (4) of Amending Canon No. 36 so that before dispensing with the wearing of any prescribed form of vesture, the minister would be required to ascertain by consultation with the PCC that doing so would be acceptable.
36. The Committee retained the existing requirement in paragraph 1(3) and (4) that the minister must also have ascertained, again by consultation with the PCC, that dispensing with the wearing of vesture would benefit the mission of the Church in the parish.
37. The Committee also agreed that, consistently with the existing position under Canon B 8.2, in the case of disagreement between the minister and the PCC, the minister should be required to refer the matter to the Bishop whose direction was then to be obeyed. The Committee amended the Canon accordingly. As the requirement to refer disagreement to the Bishop would now apply to paragraphs 2, 3 and 4 of Canon B 8 (as it is proposed to be amended), in order to avoid repetition it has been removed from paragraph 2 of Canon B 8 and is contained in a new paragraph 4A.
38. **The Reverend Paul Benfield** proposed that the words “in the parish” should be omitted from the requirement that dispensing with the wearing of vesture “would benefit the mission of the Church in the parish”. Mr Benfield took the view that Canon B 8 applied to any church or chapel and that it is therefore unclear what “in the parish” would mean in the case of a non-parochial church or chapel.
39. It was not clear to the Committee that Canon B 8 did in fact apply (at least directly) to the case of a non-parochial church or chapel. It was true that paragraph 2 of Canon B 8 referred to “the church or chapel in which [a minister] officiates” without expressly qualifying “church or chapel”. But given that the Canon (both as it currently stood and the more so as it was proposed to be amended) assumed the existence of a parochial church council which had an interest in the matter, and which would be in a position to respond to consultation from the minister on

whether a change in the form of vesture worn would be acceptable, it seemed to be implied that the Canon was in fact concerned with parochial churches and chapels.

40. That did not mean that a minister who officiated in a non-parochial church or chapel might wear whatever he or she pleased. The Committee noted that Canon C 27 (Of the dress of ministers) provided—

The apparel of a bishop, priest, or deacon shall be suitable to his office; and, save for purposes of recreation and other justifiable reasons, shall be such as to be a sign and mark of his holy calling and ministry as well to others as to those committed to his spiritual charge.

41. Moreover, the rubric in the Book of Common Prayer concerning “the ornaments of the ministers” was indicative of a general rule of church order that a prescribed form of vesture was to be worn by the officiating minister.
42. The Committee considered whether further amendments should be included to deal specifically with the situation of non-parochial churches and chapels. The Committee considered that it would be unduly prescriptive to seek to regulate the wide variety of situations which now exist outside the parochial context, which include fresh expressions and other mission initiatives.
43. On the basis that Canon B 8 was essentially concerned with regulating the parochial context, the Committee decided not to omit the words “in the parish” from the expression “benefit the mission of the Church in the parish”.

#### **Paragraph 1(4)**

44. **The Reverend Paul Benfield** proposed that the words “on a general basis” be omitted from the expression “may adopt some other form of dress to wear on a general basis” in paragraph 1(4). He proposed this because it was not clear what those words would add.
45. The Committee was advised that the words “on a general basis” were included in the amendment to paragraph 4 of Canon B 8 to take account of the fact that the paragraph currently prescribed what the minister was *normally* to wear at Morning or Evening Prayer on Sundays. The Canon therefore already allowed some latitude to the minister to dispense with wearing a prescribed form of vesture at Morning Prayer and Evening Prayer on Sundays provided that such vesture was normally worn; in other words it was already permissible for the minister to dispense with vesture at those services on an occasional basis. The amendment to paragraph 4 of Canon B 8 was therefore needed to make it clear that it was permitting the minister to go beyond what was currently permitted and to dispense with vesture on a general, as opposed to a merely occasional, basis.
46. This was in contrast to the provision made by paragraph 3 of Canon B 8 in relation to the Holy Communion. In that case, the requirement to wear one of the prescribed forms of vesture was not qualified by the inclusion of *normally* and it was therefore currently unlawful for the minister to dispense with vesture at the Holy Communion even on an occasional basis.
47. In the light of that advice, the Committee rejected the proposal to omit the words “on a general basis”.

#### **Paragraph 1(5)**

48. **The Reverend Barry Hill** raised a general issue in relation to paragraph 1(5) and the meaning of “occasional offices” in paragraph 5 of Canon B 8. In his response to the House of Bishops’ consultation, he had expressed concern about the role of the ‘persons concerned’ in relation to

baptisms that take place during a Sunday morning service. In his subsequent submission to the Committee he suggested that baptism was not in fact among the occasional offices and that his earlier concern was therefore based on a mistaken assumption, albeit one which he considered should be clarified by the inclusion of a statement to that effect.

49. The Committee was advised that Holy Baptism (along with confirmation, holy matrimony, the visitation of the sick, the communion of the sick, the burial of the dead and commination) was generally reckoned among the occasional offices (see Halsbury's Laws of England, vol. 34, para, 733 n. 6). This accorded with the understanding of members of the Committee.
50. The Committee accordingly rejected the proposal that it should amend the Canon to state that Holy Baptism was not one of the occasional offices. It did however make a different amendment to what was paragraph 1(5) as explained below.
51. **The Reverend Paul Benfield and the Archdeacon of London** proposed that paragraph 1(5) should be amended so that, in the case of the occasional offices, the minister should not need to obtain the *agreement* of the persons concerned to the minister adopting a form of dress other than one of the prescribed forms of vesture, but should only have to *consult* them before deciding whether to do so.
52. They put their respective proposals for amendment on the basis that the persons concerned should not be able to determine what form of dress the minister adopted and raised concerns about the forms of dress some people might seek to impose on the minister.
53. The Committee noted that the effect of the amendment made by paragraph 1(5) as drafted was that if the minister wished to dispense with the wearing of any prescribed form of vesture, the minister would first have to obtain the agreement of the persons concerned. It would not be open to the persons concerned (for example a wedding couple) to require the minister not to wear a prescribed form of vesture. Nor could the persons concerned dictate what the minister should wear if the prescribed forms of vesture were not worn. The persons concerned simply had a veto on dispensing with the wearing of vesture.
54. The Committee further noted that if paragraph 1(5) were amended in the way proposed by Mr Benfield and the Archdeacon of London, the minister could decline to wear any of the prescribed forms of vesture even if the persons concerned were not agreeable to that. For example, the minister could simply decide to wear a suit and tie rather than a surplice to conduct a marriage, irrespective of whether the couple were content for him to do so.
55. The Committee rejected the proposal that minister should be required only to consult the persons concerned before adopting a form of dress other than one of the prescribed forms of vesture.
56. **Mr Clive Scowen** submitted a number of proposals for amending paragraph 1(5).
57. Because of a difficulty he had identified as to the meaning of the expression "the persons concerned" in relation to funerals Mr Scowen proposed that in that case, it was the next of kin whose agreement should be required for the adoption of "some other form of dress".
58. The Committee was advised that the expression "the persons concerned" was not new to the Canons. It had been adopted from Canon B 3 (Of the form of service to be used where alternative forms are authorized). Paragraph 4 of that Canon was concerned with the occasional offices (other than confirmation) and it provided for "the persons concerned" to be involved in the selection of the form of service to be used where more than one form of service was authorized by Canon. The expression was also used in Canon B 43.1(2)(b) and B 44.4(1)(c).

The Legal Office was not aware that any difficulty had been experienced in those related contexts in identifying “the persons concerned”.

59. Mr Scowen’s proposal also seemed to assume that it was the deceased’s next of kin who would be responsible for arranging a funeral. While that might often be the case, it would not always be so. That was why, for example, the Burial Laws Amendment Act 1880 had to refer to “[a]ny relative, friend, or legal representative having the charge of or being responsible for the burial of a deceased person” in relation to the provision as to funerals made by that Act.
60. The Committee was of the view that the use of the expression “the persons concerned” represented a reasonable way of covering the various eventualities, without going into a great deal of detail to cover them individually. Accordingly, the Committee rejected the proposal concerning funerals and next of kin.
61. In relation to baptism, Mr Scowen proposed that the persons concerned should be defined as being the person to be baptized or, in the case of an infant, the parent or parents who were bringing the infant for baptism.
62. In addition to the point referred to above about Canon B 3, the Committee noted that it was not always a parent who would bring a child for baptism. Any person who had parental responsibility of the child might do so, as might a person without parental responsibility but who was acting *in loco parentis*. The Committee rejected the proposal to restrict the meaning of “persons concerned” to the parents in the case of an infant baptism.
63. Mr Scowen also made a proposal to deal with the situation where there was more than one candidate for baptism at a service by raising the possibility that the agreement of all of the persons concerned should then be required.
64. The Committee was advised that it would not, in fact, be necessary to amend paragraph 1(5) to achieve that result, as each of the candidates or those bringing them for baptism would be included in the expression “the persons concerned” as it stood. It therefore made no amendment in respect of the situation where there were several candidates for baptism.
65. Mr Scowen also submitted that the agreement of the persons concerned should not be required where a baptism was to take place during a regular Sunday service.
66. The Committee accepted the criticisms made by Mr Scowen (and at an earlier stage by Mr Hill) that the provision made by paragraph 1(5) as drafted would have an undesirable result where baptism took place during the usual Sunday service. The Committee agreed that where a baptism took place during such a service, the agreement of the persons concerned should not be required for the minister to dispense with the wearing of vesture. Whether or not the minister might do so should be governed by the general provisions concerned with the services of Holy Communion and Morning and Evening Prayer.
67. The Committee therefore agreed to amend paragraph 1(5) so that instead of referring to the occasional offices in general, it would refer to services of Baptism that are not held at public worship on a Sunday, the Solemnization of Matrimony and the burial of the dead. The Committee noted that this would mean that matters relating to vesture at the other occasional offices would not be regulated but were of the view that it was not necessary to regulate the matter in those other cases.



## Paragraph 1(6)

68. A number of submissions dealt specifically with the requirement inserted by paragraph 1(6) that any form of dress adopted by the minister instead of one of the prescribed forms of vesture must be “seemly”.
69. **Mr Adrian Greenwood, Mr Carl Hughes, Mr Brian Wilson and Mr Clive Scowen** supported the inclusion of the requirement. Mr Hughes submitted that it was apt to accommodate the variety of forms of dress likely to be worn in different pastoral settings while respecting the nature of the worship. Mr Scowen pointed out that what was seemly was likely to depend upon the context and that it should be left to the good sense of the minister in consultation with the PCC to understand and apply the requirement.
70. **The Reverend Gary Jenkins and the Dean of Southwark** were opposed to its inclusion. Mr Jenkins submitted that the requirement was unnecessary as there was no suggestion that unseemly dress had been adopted by ministers, that it was difficult to know what ‘seemly’ meant and that it was enough simply to include the requirement relating to doctrinal implications of any form of dress which was adopted. The Dean of Southwark raised the issue that the meaning of ‘seemly’ was subjective and that there was no generally accepted standard of dress which could inform that meaning. He was also concerned that it might result in gender bias, with forms of dress regarded as seemly for a man not being regarded as seemly for a woman.
71. **The Archdeacon of Southwark** drew attention to Canon C 27 (Of the dress of ministers) and the language used there. She asked that thought be given to the use of the terminology found in that Canon when it came to describing what would be acceptable. (See paragraph [40] (above) for the text of Canon C 27).
72. The Committee noted that apart from the wearing of a prescribed form of vesture at services, there was no canonically authorised form of dress that was distinctive to the clergy. While the wearing of a clerical collar had become common from the late 19<sup>th</sup> century, it had no official status as an indicator that the wearer was a clerk in holy orders.
73. For the reasons advanced by Mr Jenkins and the Dean of Southwark, the Committee agreed that it would be undesirable to retain the requirement that an alternative form of dress be “seemly”.
74. The Committee considered that the Archdeacon of Southwark’s proposal provided a helpful approach. The Committee therefore amended paragraph 1(6) to omit the words “be seemly” and in their place inserted words referring to the requirements contained in Canon C 27.

## Other submissions

75. **Mr Adrian Greenwood and Dr Michael Todd** raised the issue of the vesture worn by readers (and other laity who officiate).
76. Mr Greenwood asked for an assurance that the amendments to the Canon would also cover what readers wore.
77. Dr Todd suggested that the title to the Canon – *Of the vesture of ordained and authorized ministers during the time of divine service* – indicated that it was (or should be) applicable to those who exercised a lay ministry as well as to the clergy.
78. The Committee noted that Canon B 8 had no application to readers (or to other laity who officiate). The words “ordained and authorized” in the title of the Canon referred to individuals

who, having been ordained, had received authority to officiate (as provided for in Canon C 8). Provision for the form of vesture to be worn by readers was made in the Bishops' Regulations for Reader Ministry<sup>1</sup>; readers' vesture was not regulated by Canon. Any change to the Regulations would be a matter for the House of Bishops.

79. **The Dean of Southwark** had raised the issue of how the amendments to be made to Canon B 8 would affect cathedrals, in particular in relation to services of ordination. He requested that if Canon B 8 were to be amended as proposed, the Chapter (following consultation with the Bishop) should be the body which decided matters concerning vesture at services of ordination.
80. The Committee reminded itself of its earlier discussion about the scope of Canon B 8 and its view that it was essentially concerned with the parochial context. The provision for dispensing with the wearing of vesture was concerned with the situation where there was a parochial church council with an interest in the matter. That provision was not, therefore, applicable to the context of cathedrals.
81. The Committee also noted that Canon B 8 was concerned only with the vesture of the minister who was officiating. It therefore had no application to what was worn at services of ordination by the candidates. The form of vesture to be worn by candidates for ordination was a matter to be determined by the ordaining bishop in the light of the rubric in the Ordinal which requires the candidates to be "decently habited".<sup>2</sup>

### **AMENDING CANON NO. 37**

82. Three proposals for amendment related to what is now Amending Canon No. 37 and the amendments it makes to Canon B 38 (Of the burial of the dead).
83. **The Reverend Canon Priscilla White** proposed that the 'conscience clause' for individual clergy should be omitted. In support of her proposal, Canon White suggested that a conscience clause was unnecessary on the grounds that "The Rites of the Church of England offer a wide range of possibilities as it is to allow for conscience in the crafting of a service without introducing specific exceptions."
84. The Committee noted that the effect of Amending Canon No. 37 would be to abolish the rule that the usual form of burial service must not be used in the special cases referred to in the Canon (i.e. lack of baptism, suicide and excommunication). The normal position would become one where the usual form of service was to be used in those cases. But the Amending Canon made an exception where the minister could not in good conscience use the usual form of service. Where that was the case the minister would have to notify the bishop and use a form of service prescribed or approved by the bishop.
85. It was not clear to the Committee what possibilities Canon White had in mind in referring to "a wide range of possibilities" being offered by the rites of the Church of England to allow for cases of conscientious objection. The Committee noted that the possibilities under the Canons for "crafting a service", rather than being wide-ranging, were in fact closely circumscribed.

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<sup>1</sup> The Regulations were accepted by the House of Bishops in January 2000. Regulation 5.7 provides, "The normal dress of Readers for liturgical duties is cassock, surplice, hood of degree (where appropriate) and plain blue scarf. A cassock alb may be worn at the Holy Communion if this is the custom of the parish."

<sup>2</sup> Common Worship: Ordination Services includes a more detailed note which reads:

**"Vesture**

The ordinands may enter in the vesture of the order to which they are to be ordained. Where it is agreed that the newly ordained are to be clothed in their customary vesture during the service, this should take place after the Welcome."

Canon B 1.2 imposed a duty on the clergy to use only the forms of service authorized by that Canon except so far as they might exercise the discretion permitted by Canon B 5. Canon B 5.1 permitted the minister who was to conduct a service to “make and use variations which are not of substantial importance”. Any variation made to take account of the fact that the deceased was, for example, not baptized and avowedly not a Christian would be of substantial importance and would not therefore be allowed by Canon B 5.

86. It seemed unlikely to the Committee that the consciences of individual members of the clergy could be accommodated without making specific provision for that purpose. The Committee therefore rejected the proposal to omit the conscience provision.
87. **The Reverend Paul Benfield** proposed that the opportunity should be taken to amend paragraphs 6 and 7 of Canon B 38 to refer to “the Ordinary” (rather than “the bishop”) so that the terms used in those paragraphs were consistent with the terminology used in the earlier paragraphs.
88. While the Committee agreed that consistency would be welcome, it noted that an amendment to tidy up the Canon by amending paragraphs 6 and 7 would not be relevant to the general purport of the draft Amending Canon or within the scope of paragraph 2 (which is concerned solely with the forms of service to be used in certain cases). Accordingly, given the terms of SO 56(1)<sup>3</sup>, it was not open to the Committee to make the amendments.
89. **The Reverend Neil Patterson** proposed that Canon B 38 should be further amended to extend the minister’s duty to bury the dead to officiating at funerals generally.
90. The Committee noted that Canon B 38 reflected the basic legal duty imposed on incumbents which was to bury the body or ashes of deceased parishioners in the churchyard of the parish. Parishioners had a corresponding legal right of burial there.
91. So far as funerals taking place outside the parish were concerned, section 2(4) of the Church of England (Miscellaneous Provisions) Measure 1992 extended the duty of the incumbent to officiating in a cemetery or crematorium at the funeral of a parishioner. And section 3 of the 1992 Measure extended to parishioners who had a right of burial in the churchyard of a parish the right to have their cremated remains interred there.
92. The Committee accepted that Canon B 38 itself did not take account of the extended duty of the incumbent under section 2(4) of the 1992 Measure. But Amending Canon No. 37 was concerned solely with the forms of service to be used in relation to certain categories of burial; an amendment to the description of the incumbent’s duty as set out in Canon B 38 would not be relevant to the general purport of the Amending Canon or within the scope of paragraph 2. It would therefore be excluded by SO 56(1).

**The Venerable Gavin Kirk, Archdeacon of Lincoln**  
Chairman of the Revision Committee

November 2016

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<sup>3</sup> SO 56(1) provides that the Committee may make “such amendments to the Measure or Canon as are relevant to its general purport and within the scope of the Clause or paragraph in question”.

## CANON B 8 AS PROPOSED TO BE AMENDED IN GS 2029A

### **B 8 Of the vesture of ordained and authorized ministers during the time of divine service**

1. The Church of England does not attach any particular doctrinal significance to the diversities of vesture permitted by this Canon, and the vesture worn by the minister in accordance with the provision of this Canon is not to be understood as implying any doctrines other than those now contained in the formularies of the Church of England.

2. Notwithstanding the provisions of this Canon no minister shall change the form of vesture specified in this Canon which is in use in the church or chapel in which he officiates unless he has ascertained by consultation with the parochial church council that such changes will be acceptable: ~~Provided always that in case of disagreement the minister shall refer the matter to the bishop of the diocese, whose direction shall be obeyed.~~

3. At the Holy Communion the presiding minister shall wear either a surplice or alb with scarf or stole unless the minister has ascertained by consultation with the parochial church council that adopting some other form of dress will be acceptable and will benefit the mission of the Church in the parish. When a stole is worn other customary vestments may be added. The epistoler and gospeller (if any) may wear surplice or alb to which other customary vestments may be added.

4. At Morning and Evening Prayer on Sundays the minister shall normally wear a surplice or alb with scarf or stole; but the minister may adopt some other form of dress to wear on a general basis if the minister has ascertained by consultation with the parochial church council that doing so will be acceptable and will benefit the mission of the Church in the parish.

4A. Where, in a case within paragraph 2, 3 or 4, there is a disagreement between the minister and the parochial church council, the minister shall refer the matter to the bishop of the diocese, whose direction shall be obeyed.

5. ~~At the Occasional Offices~~At a service of Baptism that is not held at public worship on a Sunday, at the Solemnization of Matrimony or at a service for the burial of the dead the minister shall wear a surplice or alb with scarf or stole or shall adopt such other form of dress as the minister agrees with the persons concerned.

6. Where a minister adopts a form of dress other than a vesture of a form specified in this Canon, the form of dress so adopted must (in addition to the requirements of Canon C 27) not be such as to indicate a departure from the doctrines now contained in the formularies of the Church of England.

## CANON B 38 AS PROPOSED TO BE AMENDED IN GS 2029AA

### B 38 Of the burial of the dead

1. In all matters pertaining to the burial of the dead every minister shall observe the law from time to time in force in relation thereto, and, subject to this paragraph in general, the following paragraphs of this Canon shall be obeyed.
2. It shall be the duty of every minister to bury, according to the rites of the Church of England, the corpse or ashes of any person deceased within his cure or of any parishioners or persons whose names are entered on the church electoral roll of his parish whether deceased within his cure or elsewhere that is brought to a church or burial ground or cemetery under his control in which the burial or interment of such corpse or ashes may lawfully be effected, due notice being given; except the person deceased have died unbaptized, or being of sound mind have laid violent hands upon himself, and the minister cannot in good conscience use the Order for the Burial of the Dead contained in *The Book of Common Prayer* or a form of service for burial which is approved by the General Synod under Canon B 2 ~~or have been declared excommunicate for some grievous and notorious crime and no man to testify to his repentance;~~ in which case, having notified the Ordinary accordingly, and in any other case at the request of the relative, friend, or legal representative having charge of or being responsible for the burial he shall use at the burial such service as may be prescribed or approved by the Ordinary, being a service neither contrary to, nor indicative of any departure from, the doctrine of the Church of England in any essential matter: ~~Provided that, if a form of service available for the burial of suicides is approved by the General Synod under Canon B 2, that service shall be used where applicable instead of the aforesaid service prescribed or approved by the Ordinary, unless the person having charge or being responsible for the burial otherwise requests.~~
3. Cremation of a dead body is lawful in connection with Christian burial.
4. (a) When a body is to be cremated, the burial service may precede, accompany, or follow the cremation; and may be held either in the church or at the crematorium.  
  
(b) The ashes of a cremated body should be reverently disposed of by a minister in a churchyard or other burial ground in accordance with section 3 of the Church of England (Miscellaneous Provisions) Measure 1992 or on an area of land designated by the bishop for the purpose of this sub-paragraph or at sea.
5. When a body is to be buried according to the rites of the Church of England in any unconsecrated ground, the officiating minister, on coming to the grave, shall first bless the same.
6. If any doubts shall arise whether any person deceased may be buried according to the rites of the Church of England, the minister shall refer the matter to the bishop and obey his order and direction.
7. A funeral service at a crematorium or cemetery shall be performed only in accordance with directions given by the bishop.

## SUMMARY OF PROPOSED AMENDMENTS AND THE COMMITTEE'S DECISIONS

<b>Paragraph in original draft Amending Canon (GS 2029)</b>	<b>Name</b>	<b>Summary of proposal</b>	<b>Committee's decision</b>
-	The Revd Paul Benfield (Blackburn)	Divide the Amending Canon in two.	Approved.
-	Mr Andrew Gray (Norwich)	Divide the Amending Canon in two.	Approved
-	The Revd Canon Pat Hawkins (Lichfield)	Divide the Amending Canon in two.	Approved.
-	The Ven. Luke Miller, Archdeacon of London (London)	Divide the Amending Canon in two.	Approved.
-	The Very Revd Andrew Nunn, Dean of Southwark (Deans)	Divide the Amending Canon in two.	Approved.
-	The Revd Neil Patterson (Hereford)	Divide the Amending Canon in two.	Approved.
-	Brother Thomas Quin OSB (Religious Communities)	Divide the Amending Canon in two.	Approved.
-	The Ven. Jane Steen, Archdeacon of Southwark (Southwark)	Divide the Amending Canon in two.	Approved.
-	The Revd Canon Priscilla White (Birmingham)	Divide the Amending Canon in two.	Approved.
-	Mr Adrian Greenwood (Southwark)	Do not divide the Amending Canon in two.	Rejected.
-	Mr Carl Hughes (Southwark)	Do not divide the Amending Canon in two.	Rejected.
1	The Revd Canon Pat Hawkins (Lichfield)	Delete paragraph 1.	Rejected.

1	The Revd Barry Hill (Leicester)	Support inclusion of paragraph 1.	No action.
1	The Very Revd Andrew Nunn, Dean of Southwark (Deans)	Delete paragraph 1.	Rejected.
1	Mr Clive Scowen (London)	Support inclusion of paragraph 1.	No action.
1(2)	The Revd Paul Benfield (Blackburn)	Query re “change the form of vesture”: from one prescribed form to another; or from using vesture to not?	Clarify in report.
1(3) and (4)	The Rt Revd Nicholas Holtam, Bishop of Salisbury	Delete proposed text and insert the word “normally” after “the presiding minister shall” in paragraph 3 of Canon B 8.	Rejected.
1(3) and (4)	The Revd Paul Benfield (Blackburn)	Require the PCC’s agreement before a minister adopts a form of dress other than a form of vesture described in the Canon.	Rejected.
1(3) and (4)	Miss Emma Forward (Exeter)	Require the PCC’s agreement before a minister adopts a form of dress other than a form of vesture described in the Canon.	Rejected.
1(3) and (4)	Mr Andrew Gray (Norwich)	Require the PCC’s agreement before a minister adopts a form of dress other than a form of vesture described in the Canon.	Rejected.
1(3) and (4)	The Very Revd Andrew Nunn, Dean of Southwark (Deans)	Require the PCC’s agreement before a minister adopts a form of dress other than a form of vesture described in the Canon.	Rejected.
1(3) and (4)	The Revd Canon Simon Taylor (Derby)	Require the PCC’s agreement before a minister adopts a form of dress other than a form of vesture described in the Canon.	Rejected.
1(3) and (4)	Steering Committee	Require the minister to consult with the PCC as to whether the changes will be acceptable: if there is disagreement, refer the matter to the bishop of the diocese. (This is the same ‘test’ applicable in paragraph 2 of Canon B 8.)	Approved.

1(3) and (4)	The Revd Paul Benfield (Blackburn)	Delete “in the parish” from the end of paragraph 1(4) (and, it is presumed, 1(3)).	Rejected.
1(3) and (4)	Revision Committee	Maintain the requirement that any change in form of dress “would benefit the mission of the Church in the parish”.	Approved.
1(4)	The Revd Paul Benfield (Blackburn)	Delete “on a general basis”.	Rejected.
1(5)	The Revd Barry Hill (Leicester)	Expressly omit Baptism from the “Occasional Offices”.	Rejected.
1(5)	The Revd Paul Benfield (Blackburn)	Remove requirement to obtain <i>agreement</i> of the persons concerned before adopting a form of dress other than one of the prescribed forms of vesture, and replace with a requirement to <i>consult</i> before doing so.	Rejected.
1(5)	The Ven. Luke Miller, Archdeacon of London (London)	Remove requirement to obtain <i>agreement</i> of the persons concerned before adopting a form of dress other than one of the prescribed forms of vesture, and replace with a requirement to <i>consult</i> before doing so.	Rejected.
1(5)	Mr Clive Scowen (London)	Replace “persons concerned” with “next of kin” in the case of funerals.	Rejected.
1(5)	Mr Clive Scowen (London)	Define the persons concerned in the case of Holy Baptism as being the person to be baptized or, if an infant, the parent(s) bringing the child for baptism.	Rejected.
1(5)	Mr Clive Scowen (London)	In instances where there is more than one candidate for baptism, require that the agreement of all the persons concerned be obtained.	Rejected.
1(5)	Mr Clive Scowen (London)	Do not require the agreement of the persons concerned in cases where a baptism takes place during a regular Sunday service.	Rejected.



1(5)	Revision Committee	Delete “the Occasional Offices”, and specify Baptism outside a public Sunday service, the Solemnization of Matrimony, and the burial of the dead.	Approved.
1(6)	Mr Adrian Greenwood (Southwark)	Support use of term “seemly”.	No action.
1(6)	Mr Carl Hughes (Southwark)	Support use of term “seemly”.	No action.
1(6)	Mr Brian Wilson (Southwark)	Support use of term “seemly”.	No action.
1(6)	Mr Clive Scowen (London)	Support use of term “seemly”.	No action.
1(6)	The Revd Canon Gary Jenkins (Southwark)	Opposed to use of term “seemly” and suggest its deletion.	Approved.
1(6)	The Very Revd Andrew Nunn, Dean of Southwark (Deans)	Opposed to use of term “seemly” and suggest its deletion.	Approved.
1(6)	The Ven. Jane Steen, Archdeacon of Southwark (Southwark)	Give thought to use of terminology found in Canon C 27 (Of the dress of ministers).	Approved.
1(6)	Revision Committee	Omit “be seemly”, and insert words referring to the requirements contained in Canon C 27.	Approved.
1 generally	Mr Adrian Greenwood (Southwark)	Query re application of amendments to the Canon to the vesture of readers.	Clarify in report.
1 generally	Dr Michael Todd (Truro)	Query re application of amendments to the Canon to the vesture of readers.	Clarify in report.
1 generally	The Very Revd Andrew Nunn, Dean of Southwark (Deans)	Query re application of amendments to the Canon to services in cathedrals.	Clarify in report.
2	The Revd Canon Priscilla White (Birmingham)	Remove the ‘conscience clause’ for individual clergy.	Rejected.

2	The Revd Paul Benfield (Blackburn)	Amend the references to “the bishop” in paragraphs 6 and 7 of Canon B 38 to “the Ordinary”.	Rejected.
2	The Revd Neil Patterson (Hereford)	Extend the minister’s duty to bury the dead in the Canon to officiating at funerals generally.	Rejected.