

GENERAL SYNOD
LEGISLATIVE REFORM MEASURE
STATUTE LAW (REPEALS) MEASURE
PENSIONS (PRE-CONSOLIDATION) MEASURE

REPORT OF THE STEERING COMMITTEE OF MEMBERS IN CHARGE

Chair:

The Rt Revd James Langstaff, Bishop of Rochester (Chair)

Members:

The Ven. Dr Anne Dawtry (Leeds)

The Revd Paul Cartwright (Leeds)

The Rt Worshipful Peter Collier QC (*ex officio*)

Mr Carl Fender (Lincoln)

The Rt Worshipful Charles George QC (*ex officio*) (Chair of the Revision Committee)

The Rt Revd Alistair Magowan, Bishop of Ludlow

Ms Josile Munro (London)

1. The draft Legislative Reform Measure, the draft Statute Law (Repeals) Measure and the draft Pensions (Pre-consolidation) Measure received First Consideration from the General Synod at the July 2016 group of sessions. They were committed to a Revision Committee. At the February 2017 group of sessions the Synod took note of the reports of that Committee (GS 2027Y and GS 2032Y) and completed the Revision Stage for each of the draft Measures which then stood committed to the Steering Committee in respect of their Final Drafting.
2. The Steering Committee has conducted its business by correspondence under Standing Order 61(2) and (3). It now returns the draft Measures (GS 2027B, GS 2030B and GS 2032B) for Final Drafting and Final Approval.
3. Under Standing Order 61, on the Final Drafting Stage the Steering Committee may propose ‘drafting amendments’ or ‘special amendments’ or both. These two categories of amendments are defined in SO 61(6) as follows –

“drafting amendment” means an amendment to clarify any remaining uncertainties of meaning or to improve the drafting, and

“special amendment” means an amendment, other than a drafting amendment, considered necessary or desirable by the Steering Committee and which does not

reopen an issue which has been decided by the Synod or any Revision Committee in relation to the Measure or Canon.

4. The Steering Committee has made the drafting amendments described below and shown in bold type in the relevant draft Measure.

Drafting amendments

Legislative Reform Measure

4. The Committee has made two drafting amendments to the Legislative Reform Measure.
5. The first drafting amendment is concerned with clause 4 (consultation). A possible difficulty with the interaction between subsections (4) and (5) has been identified. Subsection (4) requires the Archbishops' Council to lay consultation documents before Parliament before beginning a consultation under clause 4. Subsection (5) enables consultation that has been carried out by the Archbishops' Council prior to the commencement of the Measure to be treated as if it were consultation under clause 4. As the clause currently stands, it is unclear whether, if there has been pre-commencement consultation, one may rely on subsection (5) to say that the requirements of the clause have been satisfied, given that it will not yet have been possible to comply with the requirement in subsection (4) to lay consultation documents before Parliament.
6. Subsection (5) has accordingly been amended to include an express assumption that subsection (4) has been complied with, but a further requirement has been added for the Archbishops' Council to lay the relevant consultation papers before Parliament as soon as possible after commencement of the Measure.
7. The second drafting amendment is to clause 6, subsection (3). The opening words of the subsection have been adjusted in the light of the view expressed by the Standing Orders Committee that the matters which the scrutiny committee must assess should be contained in the Standing Orders.

Statute Law (Repeals) Measure

8. Several drafting amendments are made to the Statute Law (Repeals) Measure.
9. On Part 2 of the Schedule, and the repeal of the Pluralities Act 1838, section 132 is excepted from the general repeal on the basis that it is capable of applying to section 59. That removes what would otherwise be an uncertainty as the continuing effect of section 59.
10. On Part 3 of the Schedule, in the consequential repeals, the revocation in the Conservation (Natural Habitats &c.) Regulations 1994 (S.I. 1994/2716) has been removed, as those Regulations have already been revoked in England and Wales. The purported revocation is accordingly redundant and its removal is a drafting improvement.
11. On Part 5 of the Schedule, there are a few extra repeals which have been made in the light of points raised with the Legal Office about other statutory provisions which are incorrectly based on the assumption that there could be no parochial church council in respect of a parish. These extra repeals can properly be characterised as drafting

amendments, on the basis that they merely remove an uncertainty; if the Measure were to repeal only one of the provisions concerned, that would give the impression that the other provisions have a continuing significance which they in fact do not. On the repeals themselves, the repeal of the Church of England (Miscellaneous Provisions) Measure 2005, Schedule 1, paragraph 7 is consequential on the repeal of section 12 of the Parsonages Measure 1938.

12. On Part 7 of the Schedule, and the Ecclesiastical Commissioners Act 1860, there is now a repeal to section 14 of the words from “; but this enactment” to the end. The inclusion of this consequential amendment removes what would otherwise be an uncertainty in the 1860 Act. Although this repeal is consequential on the repeal of section 13, it would seem unnecessary to include a separate “Consequential repeals” part of the table solely for that purpose; it is therefore included in the same table as the main repeals in this Part of the Schedule.

Pensions (Pre-consolidation) Measure

13. The only amendment to this Measure is a drafting amendment to insert a new subsection (7) in clause 2. It is a drafting amendment on the basis that it removes an uncertainty as to the application of the amendments made by the Measure to the diocese in Europe. Arguably, saying nothing would achieve the right result on the basis that the provisions that are amended by the Measure already apply to that diocese, but it would leave the point open to doubt.

Special amendments

14. No special amendments are proposed in respect of any of the draft Measures.

On behalf of the Committee
+James Roffen:
Chair

June 2017