

## GENERAL SYNOD

## DRAFT AMENDING CANON NO. 38

## Explanatory Memorandum

*Background and summary*

1. Draft Amending Canon No. 38 makes a number of amendments to the Canons to give effect to proposals contained in the second report of the Simplification Task group<sup>1</sup>. It includes amendments that are concerned with the requirements as to the holding of certain services in parish churches to cover the position of multi-parish benefices and benefices that are held in plurality. It substitutes a new Canon B 43 for the existing Canons B 43 and B 44 which provide for ecumenical activity. It also makes amendments to Canons concerned with ordination, certain appointments and with the exercise of ministry.
2. The text of the Canons as proposed to be amended by the Amending Canon (other than Canons B 43 and B 44 which are replaced in their entirety and certain other Canons to which minor amendments are being made) is set out in the Appendix.

*Notes on the provisions of the Draft Amending Canon*

3. **Paragraph 1** amends Canon B 11 (services of Morning and Evening Prayer).
4. It replaces the existing requirement that Morning and Evening prayer be said or sung in every parish church on all Sundays and on certain other feast days and holy days with a requirement that those service be held in at least one church in each benefice, or where benefices are held in plurality, in at least one church in at least one of those benefices.
5. Paragraph 1 also replaces the existing requirement for the clergy to make provision for Morning and Evening prayer to be said or sung in the parish church or elsewhere on all other days with an equivalent requirement to make such provision for those services to be held in least one of the churches in the benefice (or at least one of the churches in one of the benefices that are held in plurality) or elsewhere.
6. Paragraph 1(4) and (5) makes consequential amendments to other provisions of Canon B 11.
7. **Paragraph 2** amends Canon B 14 (celebration of Holy Communion).
8. It makes equivalent changes to those made by paragraph 1 of the Amending Canon so that the existing requirement for the celebration of the Holy Communion in every parish church on al Sundays and certain other days is replaced with a requirement that it be celebrated in at least one church in each benefice or, where benefices are held in plurality, in at least one church in at least one of the benefices.
9. Paragraph 2(3) and (4) make consequential amendments to other provisions of Canon B 14.
10. **Paragraph 3** amends Canon B 14A which makes provision for dispensing with holding services of Morning or Evening Prayer or of Holy Communion. The changes it makes are consequential on the amendments that are made to Canons B 11 and B 14 by paragraphs 1 and 2 of the Amending Canon.

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<sup>1</sup> Available at [https://www.churchofengland.org/media/2867478/ac\\_16\\_59\\_-\\_simplification\\_task\\_group.pdf](https://www.churchofengland.org/media/2867478/ac_16_59_-_simplification_task_group.pdf)

11. **Paragraph 4** substitutes a new Canon B 43 entitled “Of ecumenical relations” for existing Canons B 43 (Of relations with other Churches) and B 44 (Of local ecumenical projects).
12. *New Canon B 43.1 – 7* replace existing Canon B 43. *New Canon B 43.8 – 12* replace existing Canon B 44 and make provisions which relate to Local Ecumenical Co-operative schemes (in reliance on the amendment made by clause 2 of the draft Church Representation, Ecumenical Relations and Ministers Measure).
13. *New Canon B 43.1 – 2* make provision for invitations to members of other churches to take part in Church of England services.
14. *New Canon B 43.1* sets out who may be invited to take part in services and which duties they may perform. In reliance upon the amendments to the Church of England (Ecumenical Relations) Measure 1988 made by clause 2 of the draft Church Representation, Ecumenical Relations and Ministers Measure, new Canon B 43.1(3) and B 43.1(4) make extended provision for members of the Salvation Army and others to participate in services. New Canon B 43.1(7) repeats the mandatory conditions which are found in existing Canon B 43.
15. *New Canon B 43.2* provides for the application of the Canon where a BMO has been made.
16. *New Canon B 43.3 – 4* make provision for members of other churches to take part in joint worship. A “designated Church” means a church to which the ERM 1988 applies.
17. *New Canon B 43.3* provides for joint worship in a parish church or cathedral and for the use of a parish church or cathedral for a service held in accordance with the practice of the relevant designated Church. The new Canon repeats the existing provision of Canon B 43 and, accordingly, requires the consent of the relevant incumbent or Chapter.
18. *New Canon B 43.4* provides for the application of the Canon where a BMO has been made.
19. *New Canon B 43.5 – 6* make provision for invitations from other churches to Church of England “office holders” to take part in services, defined broadly to make provision for invitations to be given to bishops, priests and deacons, deaconesses, lay workers and readers, as under existing Canon B 43. New Canon B 43.5(3) repeats the conditions which are set out in existing B 43.
20. *New Canon B 43.6* provides for the application of the Canon where a BMO has been made.
21. *New Canon B 43.7* applies to any invitation made under paragraphs B 43.1 – 6. In particular, it provides for mandatory consultation and approval the detail of which will be set out in a Code of Practice to be issued by the House of Bishops in reliance on the amendments made by clause 4 of the draft Church Representation, Ecumenical Relations and Ministers Measure. As a result of this paragraph, much of the detail of existing Canon B 43 will be set out in the Code of Practice. New Canon B 43.7(2) ensures that the conditions of any approval can be flexible and tailored to the circumstances of each case. New Canon B 43.7(4) preserves the conditions of existing Canon B 43 which relate to invitations to preside at the Holy Communion. New Canon B 43.7(5) – (6) preserves an office holder’s right of appeal to the diocesan bishop.
22. *New Canon B 43.8* provides for the establishment of Local Ecumenical Co-operative schemes and provides for the duration, extension and revocation of such schemes.

23. *New Canon B 43.9* repeats the provision of existing Canon B 44 and requires the relevant bishop(s) to approve the amendment of an existing scheme.
24. *New Canon B 43.10* provides for the steps which a bishop may take once a scheme has been agreed. *New Canon B 43.10* repeats the provisions of existing Canon B 44 but in a list format.
25. *New Canon B 43.11* sets out limitations and conditions on the making of a scheme. It repeats the provisions of existing Canon B 44.
26. *New Canon B 43.12* provides that a bishop must undertake mandatory consultation and obtain mandatory approval before agreeing to make or amend a scheme the details of which will be set out in the Code of Practice. As a result of this paragraph, much of the detail of existing Canon B 44 will be set out in the Code of Practice.
27. *New Canon B 43.13* sets out interpretive and general provisions.
28. **Paragraph 5** amends Canon C 5 (titles of those to be ordained) so that title posts for ordinands are no longer limited to the office of assistant curate (as the law currently requires) but are extended to include any ecclesiastical office to be held under Common Tenure. The extension to such offices would, for example, enable a person to be ordained to serve as a pioneer minister in a mission initiative provided for by a bishop's mission order without the need for the minister to be attached to a parish.
29. This amendment is to be made in reliance on the provision contained in clause 5 of the draft Church Representation, Ecumenical Relations and Ministers Measure.
30. **Paragraph 6** amends Canon C 8 so that a member of the clergy who is beneficed or licensed to serve in a diocese automatically has authority to officiate in any church or chapel in the diocese at the invitation of the minister with the cure of souls, without any limitation as to the frequency with which he or she may do so.
31. The authority to officiate conferred by the amended provisions of Canon C 8 is made subject to a power of the bishop to make a direction in the case of an individual member of the clergy limiting him or her to officiating only in the benefice or other place where he or she is beneficed or licensed.
32. **Paragraph 7** amends canon C 21 (deans etc.) to remove the existing requirement that a person must have been in holy orders for six years to be eligible for appointment as a dean or residentiary canon. This amendment is to be made in consequence of the amendment contained in clause 6 of the draft Church Representation, Ecumenical Relations and Ministers Measure.
33. Paragraph 7 also removes redundant references to provosts where they appear in the Canons.
34. **Paragraph 8** amends Canon C 22 (archdeacons) to remove the existing requirement that a person must have been in holy orders for six years to be eligible for appointment as an archdeacon. This amendment is also to be made in consequence of the amendment contained in clause 6 of the draft Church Representation, Ecumenical Relations and Ministers Measure.

35. **Paragraph 9** amends Canon E 8 (admission and licensing of lay workers) so that the requirement contained in paragraph 6 of that Canon for the bishop to keep a register of those licensed or admitted by the bishop as a lay worker can be complied with by keeping the register in a form other than that of a book. It would, for example, enable the register to be kept in the form of a paper file or in electronic form.
36. Paragraph 9 also corrects a number of incorrect references in the Canons to extra-parochial places. The references should in each case be to “an extra-parochial minister” to be consistent with the relevant provisions of the Deaconesses and Lay Ministry Measure 1972. (See section 1(5) of that Measure.)

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## TEXT OF CANONS AS PROPOSED TO BE AMENDED

**B 11 Of Morning and Evening Prayer in parish churches**

1. Morning and Evening Prayer shall be said or sung ~~in every parish church~~ in at least one church in each benefice or, where benefices are held in plurality, in at least one church in at least one of those benefices, at least on all Sundays and other principal Feast Days, and also on Ash Wednesday and Good Friday. Each service shall be said or sung distinctly, reverently, and in an audible voice. Readers, such other lay persons as may be authorized by the bishop of the diocese, or some other suitable lay person, may, at the invitation of ~~the minister of the parish~~ the minister who has the cure of souls or, where the cure is vacant or the minister is incapacitated, at the invitation of the churchwardens say or sing Morning and Evening Prayer (save for the Absolution).

2. ~~On all other days the minister of the parish, together with other ministers licensed to serve in the parish, shall make such provision for Morning and Evening Prayer to be said or sung either in the parish church or, after consultation with the parochial church council, elsewhere as may best serve to sustain the corporate spiritual life of the parish and the pattern of life enjoined upon ministers by Canon C 26.~~ On all other days, the minister who has the cure of souls, together with other ministers licensed to serve in the benefice (or one or more of the benefices), shall make such provision for Morning and Evening Prayer to be said or sung either in at least one of the churches in the benefice (or at least one of the churches in at least one of the benefices) or, after consultation with the parochial church council of each parish in the benefice (or benefices), elsewhere as may best serve to sustain the corporate spiritual life of the benefice (or benefices) and the pattern of life enjoined upon ministers by Canon C 26. Public notice shall be given ~~in the parish~~, by tolling the bell or other appropriate means, of the time and place where the prayers are to be said or sung.

3. The reading of Morning and Evening Prayer ~~in any parish church~~ as required by this Canon may only be dispensed with in accordance with the provisions of Canon B 14A.

**B 14 Of Holy Communion in parish churches**

1. The Holy Communion shall be celebrated ~~in every parish church~~ in at least one church in each benefice or, where benefices are held in plurality, in at least one church in at least one of the benefices at least on all Sundays and principal Feast Days, and on Ash Wednesday and Maundy Thursday. It shall be celebrated distinctly, reverently, and in an audible voice.

2. The celebration of the Holy Communion ~~in any parish church~~ as required by this Canon may only be dispensed with in accordance with the provisions of Canon B 14A.

~~3. In churches and chapels dependent on a parish church, the Holy Communion shall be celebrated as regularly and frequently as may be convenient, subject to the direction of the Ordinary under Canon B 14A.~~

**B 14A Of services in churches and other places of worship**

1. The reading of Morning and Evening Prayer ~~in any parish church~~ as required by Canon B 11 or the celebration of the Holy Communion ~~in any parish church~~ as required by Canon B 14 may be dispensed with as follows:

- (a) on an occasional basis, as authorized by ~~the minister and the parochial church council~~ the minister who has the cure of souls and the parochial church council of each parish in the benefice acting jointly;
- (b) on a regular basis, as authorized by the bishop on the request of ~~the minister and the parochial church council~~ the minister who has the cure of souls and the parochial church council of each parish in the benefice acting jointly.

~~In exercising the powers under this paragraph the minister and the parochial church council or the bishop as the case may be~~ In giving an authorization under this paragraph, the person or persons doing so must be satisfied that there is good reason for doing so and shall -

~~(i) have regard to the frequency of services of Morning and Evening Prayer or the celebration of the Holy Communion (as the case may be) in other parish churches or places of worship in the benefice; and~~

(ii) ensure that no church ceases altogether to be used for public worship.

~~2. Where there is more than one parish church or place of worship in a benefice or where a minister holds benefices in plurality with more than one parish church or place of worship the minister and the parochial church council acting jointly shall make proposals to the bishop as to what services of Morning and Evening Prayer or the celebration of the Holy Communion (as the case may be) are to be held in each of the parish churches or places of worship and if the bishop is satisfied with the proposals he shall authorize them accordingly. In default of the minister and parochial church council making satisfactory proposals, the bishop shall make such direction as he considers appropriate. In exercising the powers under this paragraph the bishop shall ensure that no church ceases altogether to be used for public worship.~~

~~3. The powers under paragraphs 1 and 2 of this Canon shall extend to any parish centre of worship designated under section 29(2) of the Pastoral Measure 1983.~~

4. The bishop of a diocese may, subject to Canons B 11 and B 14 and the preceding paragraphs of this Canon, direct what services shall be held or shall not be required to be held in any church in the diocese ~~which is not a parish church~~ or in any building, or part of a building, in the diocese licensed for public worship under ~~section 29 of the Pastoral Measure 1983~~ section 43 of the Mission and Pastoral Measure 2011 but not designated as a parish centre of worship.

## **C 5 Of the titles of such as are to be ordained deacons or priests**

~~1. Any person to be admitted into holy orders shall first exhibit to the bishop of the diocese of whom he desires imposition of hands a certificate that he is provided of some ecclesiastical office within such diocese, which the bishop shall judge sufficient, wherein he may attend the cure of souls and execute his ministry. A bishop may admit a person into holy orders only if, subject to paragraphs 2 and 3, the bishop is satisfied that the person is provided with an office to be held under Common Tenure in the bishop's diocese.~~

2. A bishop may also admit into holy orders

- (a) any person holding office in any university, or any fellow, or any person in right as a fellow, in any college or hall in the same;
- (b) any master in a school;
- (c) any person who is to be a chaplain in any university or in any college or hall in the same or in any school;

- (d) any person who is to be a member of the staff of a theological college;
- (e) any person who is living under vows in the house of any religious order or community:

Provided that the said university, college, hall, school, or house of a religious order or community be situate within his diocese.

3. A bishop may also admit into holy orders persons for service overseas in accordance with the statutory provisions in that behalf in force from time to time.

4. No person shall be admitted into holy orders by any bishop other than the bishop of the diocese in which he is to exercise his ministry, except he shall bring with him Letters Dimissory from the bishop of such diocese.

5. Notwithstanding any provision of the preceding paragraphs of this Canon, the ancient privilege of any fellow or any person in right as a fellow in any college or hall in the University of Oxford or of Cambridge to be admitted into holy orders without Letters Dimissory by any bishop willing to ordain him shall be unimpaired.

### **C 8 Of ministers exercising their ministry**

1. Every minister shall exercise his ministry in accordance with the provisions of this Canon.

2. A minister duly ordained priest or deacon, and, where it is required under paragraph 5 of this Canon, holding a licence or permission from the archbishop of the province, may officiate in any place only after he has received authority to do so from the bishop of the diocese or other the Ordinary of the place.

Save that:

(a) The minister having the cure of souls of a church or chapel or the sequestrator when the cure is vacant or the dean or provost and the canons residentiary of any cathedral or collegiate church may allow a minister, concerning whom they are satisfied either by actual personal knowledge or by good and sufficient evidence that he is of good life and standing and that he has authority to officiate in accordance with this Canon (whether in that or another diocese), to minister within their church or chapel—

(i) except in a case within paragraph (ii), for a period of not more than seven days within three months without reference to the bishop or other Ordinary, or

(ii) in the case of a minister who is instituted to a benefice in that diocese or admitted to serve within that diocese by licence under the hand and seal of the bishop and who is not subject to a direction under paragraph 4A, for an indefinite period without reference to the bishop or other Ordinary.

and a minister so allowed shall be required to sign the services register when he officiates.

(b) No member of the chapter of a cathedral church shall be debarred from performing the duties of his office in due course and exercising his ministry within the diocese merely by lack of authority from the bishop of the diocese within which the cathedral is situate.

(c) Any minister who has a licence to preach throughout the province from the archbishop or throughout England from the University of Oxford or of Cambridge, may preach the Word of God in any diocese within that province or throughout England, as the case may be, without any further authority from the bishop thereof.

(d) A funeral service which may, under section 2 of the Church of England (Miscellaneous Provisions) Measure 1992, be performed in a parish without the consent of the minister of the parish may be performed without any further authority from the bishop of the diocese within which the parish is situated.

3. The bishop of a diocese confers such authority on a minister either by instituting him to a benefice, or by admitting him to serve within his diocese by licence under his hand and seal, or by giving him written permission to officiate within the same.

4. No minister who has such authority to exercise his ministry in any diocese shall do so therein in any place in which he has not the cure of souls without the permission of the minister having such cure, except at the homes of persons whose names are entered on the electoral roll of the parish which he serves and to the extent authorized by the Extra-Parochial Ministry Measure 1967, or in a university, college, school, hospital, or public or charitable institution in which he is licensed to officiate as provided by the said Measure and Canon B 41 or, in relation to funeral services, as provided by section 2 of the Church of England (Miscellaneous Provisions) Measure 1992 or in the case of a bishop's mission order to the extent authorized by section 47(11) of the Dioceses, Pastoral and Mission Measure 2007, read with section 47(14) of that Measure.

[4A. In the case of a minister who is instituted to a benefice or admitted to serve within a diocese by licence under the hand and seal of the bishop of the diocese, the bishop may direct that the minister may officiate only in the benefice or \(as the case may be\) the place to which the licence applies.](#)

5. A minister who has been ordained priest or deacon –

(a) by an overseas bishop within the meaning of the Overseas and Other Clergy (Ministry and Ordination) Measure 1967;

(b) under section 5 of that Measure for ministry overseas;

(c) by a bishop in a Church not in communion with the Church of England, whose orders are recognized or accepted by the Church of England;

may not minister in the province of Canterbury or York without the permission of the archbishop of the province in question under the said Measure: Provided that this paragraph shall not apply to any person ordained priest or deacon by any such bishop on the request and by the commission in writing of the bishop of a diocese in the province of Canterbury or York.

6. A minister who does not have authority to officiate in accordance with this Canon or is prohibited or suspended under the Clergy Discipline Measure 2003 from exercising the functions of his Orders may not vest in a church or chapel during divine service.

7. The minister having the cure of souls of a church or chapel or the sequestrator when the cure is vacant or the dean or provost and the canons residentiary of any cathedral or collegiate church may not allow a minister to officiate or vest in the church or chapel if they know that the minister does not have authority to officiate, or is prohibited or suspended, as mentioned in paragraph 6.

8. (1) A minister who has authority to officiate in a diocese in accordance with this Canon shall participate in such arrangements as the bishop of the diocese approves for the provision of training in matters relating to the safeguarding of children and vulnerable adults.

(2) In this paragraph—

“child” means a person aged under 18, and

“vulnerable adult” has the same meaning as in the Safeguarding and Clergy Discipline Measure 2016”.

## **C 21 Of deans or provosts, and canons residentiary of cathedral and collegiate churches**

1. ~~No person shall be capable of receiving the appointment of dean, provost or canon residentiary until he has been six years complete in holy orders and, in the case of a dean or provost, is in priest's orders at the time of the appointment, except in the case of a canonry annexed to any professorship, headship, or other office in any university. No person shall be capable of receiving the appointment of dean unless the person is in priest's orders at the time of the appointment.~~

1A. A person who is in deacon's orders ~~and who has been ordained for a period exceeding six years~~ shall be capable of receiving the appointment of canon residentiary of a cathedral church notwithstanding anything in the statutes or customs of that cathedral church to the contrary, but nothing in such statutes or customs shall be construed as authorising or requiring a person in deacon's orders so appointed to preside at or celebrate the Holy Communion or pronounce the Absolution.

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## **C 22 Of Archdeacons**

1. ~~No person shall be capable of receiving the appointment of archdeacon until he has been six years complete in holy orders and is in priest's orders at the time of the appointment. No person shall be capable of receiving the appointment of archdeacon unless the person is in priest's orders at the time of the appointment.~~

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## **E 8 Of the admission and licensing of lay workers**

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6. The bishop of every diocese shall keep a register ~~book~~ wherein shall be entered the name of every person either admitted or licensed by him as a lay worker, together with the particular duties which that person has been licensed to perform.