

GENERAL SYNOD**DRAFT MISSION AND PASTORAL ETC. (AMENDMENT) MEASURE****EXPLANATORY MEMORANDUM****BACKGROUND**

1. This Measure implements those provisions of the Report of the Simplification Group (**GS 1980**) (“the Report”) which require legislation by Measure. There is no single overarching theme, but the majority of the changes amend the legislative framework for pastoral reorganisation and church closure, and related matters.
2. The Simplification Group was appointed by the Archbishops’ Council and the Church Commissioners to bring forward options for simplification and deregulation in response to concerns about legislative constraints to mission and growth. Its remit was :

“To consider concerns raised about the constraints caused to the mission and growth of the Church of England by existing canons, legislation, regulations and procedures and to bring forward options and proposals for simplification and deregulation, and to report back to Archbishops’ Council and the Board of Governors of the Church Commissioners by November 2014”.

3. The Group considered a number of matters in the course of its work in 2014, following an extensive consultation with diocesan staff and senior office-holders.
4. The Group reported in November 2014 to the Commissioners’ Board of Governors and the Archbishops’ Council, and its report was debated and approved by the General Synod at the February 2015 group of sessions.
5. The Group continues in existence (with slightly amended membership) and phase 2 of its work will take place in the course of 2016, and will draw on the results of consultation directly with parishes. The expectation is that there will be a further Measure, to be introduced to the Synod in 2017, arising out of this second stage of the work.
6. Not all the recommendations made by the Group required legislative change. A number of its recommendations have already been implemented by non-legislative means. For example, the Group recommended the establishment of a group to consider the issues relating to church buildings, and the Church Buildings Review Group presented its report to the General Synod at the November 2015 group of sessions.
7. At the July 2015 group of sessions the Synod approved the Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 2015, which implemented those of the Group’s recommendations that related to terms of service (including, in particular, making provision for time-limited “interim posts”). The regulations came into force on 1st November 2015.

THE MEASURE

Clause 1

8. This clause implements paragraphs 44 to 47 of the Report. It amends the consultation provisions of the Mission and Pastoral Measure 2011 (“the Measure”) for pastoral schemes or orders and pastoral church buildings schemes.
9. Subsections (1) and (4) amend sections 6 and 21 of the Measure so that where a scheme or order implements a deanery plan, there is no requirement for the first stage of consultation under the Measure (provided that there has been proper consultation, and that the plan for reorganisation which goes forward to be formulated into a scheme is substantially the same as the deanery plan).
10. Subsections (2) and (5) amend sections 6 and 21 so that, where a diocesan mission and pastoral committee is consulting on proposals which have not yet taken final shape, the committee may consult anyone who they consider might become affected by the plans as an “interested party”. This allows for the first stage of statutory consultation to take place before proposals have taken shape, enabling the consultation to help shape the proposals.
11. Subsection (3) makes a consequential amendment to section 7(3).

Clause 2

12. This clause implements paragraphs 49 to 51 of the Report. It enables dioceses to request the Commissioners to draft a scheme or order on their behalf. In 2007, there was a move away from schemes being drafted by the Commissioners, on the ground that it would be better for dioceses to prepare their own. However, not all dioceses have the resources or expertise available to enable them to do this, and therefore a number requested this amendment when the Group consulted the dioceses. If the amendment is made, dioceses which have sufficient resources to prepare schemes themselves will be able to continue to do so if they wish, while others will be able to ask the Commissioners to draft them.
13. The effect of the amendments made by subsections (1) and (4) is that the Commissioners are required to draft a scheme or order in any case where they are requested to do so, provided that they are satisfied that the appropriate procedure under the Measure has been followed, and to send the scheme or order to the diocesan mission and pastoral committee. Subsections (2) and (3) make consequential changes to the existing text of section 7 of the Measure.

Clause 3

14. This clause makes further provision for the implementation of paragraphs 49 to 51 of the Report, and also implements paragraph 53. It makes amendments to the procedure for publication of draft schemes or orders under sections 9 (pastoral schemes and orders) and 24 (pastoral church buildings schemes) of the Measure.
15. Subsection (2) provides that where the Commissioners have drafted a scheme, they (rather than the mission and pastoral committee of the diocese) must serve a copy and the appropriate notice on each of the interested parties. (Subsection (1) makes an amendment

consequential on this change, which provides that the mission and pastoral committee is required to serve only those draft schemes or orders which it has prepared itself.)

16. Subsection (3) inserts a new requirement into section 9 of the Measure for the Commissioners to publish all draft schemes and orders online. Subsection (7) makes the equivalent provision in section 24.
17. Subsection (4) makes some consequential amendments to section 9(2), so that the notice of the scheme or order is required to specify where it may be found online. Subsection (7) makes the equivalent provision in section 24.
18. Subsection (5) amends section 9 to require an announcement to be made during at least one service held within any church or place of worship affected by the scheme, to ensure that as many people as possible become aware of the scheme, particularly those directly affected by it because they attend services in the parish. Subsection (8) makes the equivalent provision for section 24.
19. Subsection (6) amends section 10 to confer a new power on the Church Commissioners to make amendments to a draft scheme or order and to carry out such consultation as they see fit, in circumstances where the Commissioners have considered representations about an alternative proposal which they consider more suitable than the proposals contained in the original draft scheme or order. This has the effect that a scheme could be amended without the need in every case for the complete statutory consultation process. Subsection (9) makes the equivalent amendment to section 25, for pastoral church buildings schemes.

Clause 4

20. This clause implements the recommendations of paragraphs 54 to 57 of the Report. It makes a number of amendments to the provisions relating to teams and groups.
21. First, it removes the provisions from the legislation which enable the scheme itself to make provision for certain matters (e.g. the assignment of a special cure of souls to a particular team member). Where such provision is made by scheme, it is very inflexible and can be altered only by amending scheme. The legislation already provides for an alternative, more flexible approach, namely inclusion of such matters in the bishop's licence.
22. Second, it repeals a number of requirements which do not properly belong in legislation (though they may be very desirable to have as a matter of good practice), because legislation should not be too prescriptive of the fine detail (e.g. as to the arrangements for team meetings).
23. It also removes a number of obsolete provisions from Schedule 3 to the Measure, relating to patronage for team and group ministries.

Clause 5

24. This clause implements the recommendations of paragraphs 75 to 84 of the Report. It replaces section 40 of and Schedule 4 to the Measure, making new provision for compensation for clergy dispossessed of their office following pastoral reorganisation.

25. Under the existing compensation scheme, a person dispossessed of an ecclesiastical office by pastoral reorganisation could apply for compensation for the loss, which could take the form of a lump sum or of periodical payments. If periodical payments were made, the person would be entitled to continue to receive them until appointment to a suitable alternative ecclesiastical office (or refusal to take up a suitable ecclesiastical office). Potentially, compensation could continue to be paid until retirement.
26. Under the new scheme, entitlement to compensation will depend on the length of stipendiary ecclesiastical service. All stipendiary clergy, regardless of the length of time they have been in post, will be entitled to a lump sum equivalent to six months' stipend. In addition, anyone who has held stipendiary office for seven or more years before the scheme takes effect will be entitled to a month's stipend for each year of service up to 21 years.
27. The lump sum will also include a sum equivalent to six months' pension contributions. If the person then obtains another ecclesiastical office, it will be possible for him or her either to make additional voluntary contributions to the Church of England Funded Pension Scheme using the lump sum, or to retain the lump sum for immediate use. (The scheme rules prohibit payment directly into the pension scheme during a period when the person does not hold a stipendiary office.)
28. In addition to the financial compensation, anyone who was entitled to housing immediately before the coming into force of the scheme will be entitled to housing from the DBF for a period of 6 months from the loss of office. The housing may, but need not, be the parsonage or other house where the person was living for the performance of the duties of the office.
29. The new Schedule also provides (at paragraph 6) that the Archbishops' Council may in future amend it by order. This provision is included because, since this represents a radical departure from the previous scheme, there may be a need for refinements of the scheme in future following practical experience of its use, and therefore it is desirable to enable relatively speedy amendment. The power is not wide enough to be used for a complete repeal and replacement of the compensation scheme, as the Council would be constrained in its exercise of the power by the principles of administrative law.
30. Because of the repeal of the previous Schedule 4 to the Measure, consequential amendments are required to the Incumbents (Vacation of Benefices) Measure 1977 to ensure that there continues to be provision for the appointment of an appeal panel under that Measure (which presently relies on the existence of panels appointed under Schedule 4). Therefore subsection (5) inserts a new Schedule into that Measure to make provision for appeal panels.

Clause 6

31. This clause implements paragraphs 41 to 43 of the Report. It introduces a new Part 5A into the Measure, providing for a new class of "bishop's pastoral orders". The new provision enables a bishop to make certain types of provision that could be made by pastoral scheme or order by "bishop's pastoral order" instead. The classes of provision that can be made under the new orders are listed in subsection (1).

32. Nothing in the draft clause prevents the inclusion of any of these matters in a pastoral scheme or order. There will be no circumstances where a diocese will be **required** to use the new type of order.
33. A bishop must consult “such persons, groups of persons or organisations” as he or she thinks fit before making a bishop’s pastoral order. However, there is no right to make representations to the Commissioners if individuals are aggrieved by the proposals contained in an order.

Clause 7

34. This clause arises from paragraph 64 of the Report. It increases the maximum number of trustees of the Churches Conservation Trust, to ensure that it is able to obtain the breadth of specialist knowledge that it is looking for on its Board.
35. The clause does not specifically implement the recommendation in paragraph 64 of the Report that any restriction on the number of the Trust’s trustees be removed, because although the general point about over-prescriptiveness in the creation of statutory bodies is valid, the Churches Conservation Trust is jointly funded by the Church Commissioners and the Government. On further consideration, the view has therefore been taken that it would be undesirable to make substantial amendments to its constitution without extensive consultation with the Department for Culture, Media and Sport.

Clause 8

36. This clause implements paragraphs 60 and 61 of the Report. It removes the requirements for consultation on a pastoral (closed church buildings) scheme in all cases except where there are burials in the building or in an annexed churchyard or burial ground, or the scheme provides for demolition or the church is to be vested in the Churches Conservation Trust. This is because the Simplification Group took the view that most of the matters in respect of which representations are made about a closed church building are planning matters which could be raised with the local authority, and therefore the present arrangements result in double regulation.

Clause 9

37. This clause implements paragraphs 68 to 73 of the Report. It amends the procedures for making Bishops’ Mission Orders, and simplifies the legislative requirements for such Orders.
38. Subsection (1) repeals some of the specific requirements imposed on the Visitor of a mission initiative (e.g. reviewing the initiative at least every 18 months).
39. In place of those specific requirements, subsection (2) inserts a general power for the Visitor to take such steps as he or she thinks appropriate for “ensuring the proper governance of the mission initiative”.

40. Subsection (3) repeals section 81(3) of the Measure, which provides that any person may draw anything to the Visitor's attention. That provision is unnecessary as a matter of law: legislative permission is not required for any person to draw relevant matters to the Visitor's attention.
41. Subsection (4) replaces a reference to the mission and pastoral committee in section 82(6) of the Measure with a reference to the bishop or bishops: the reference should not have been there as the mission and pastoral committee of a diocese does not generally have a role in relation to BMOs.
42. Subsection (5) enables a BMO to be made for an indefinite period (whereas at present the maximum duration is five years, after which the order must be renewed if it is to continue in effect).
43. Subsection (6) provides for copies of BMOs, and related material, to be sent to the Commissioners so that there is a central record of how many BMOs there are, and in which dioceses.
44. Subsections (7) to (12) make consequential amendments to section 83 to reflect that some BMOs will be of indefinite duration.

Clause 10

45. This clause implements paragraphs 85 and 86 of the Report. Subsection (1) amends section 20 of the Endowments and Glebe Measure 1976, removing the obligation for a diocesan board of finance to consult incumbents and PCCs on proposed glebe transactions.
46. The remaining subsections make consequential amendments to section 20 and Schedule 3, and repeal a number of provisions which inserted amendments to provisions repealed by this clause.

Clause 11

47. This clause implements paragraph 87 of the Report. Subsection (1) amends section 16 of the Patronage (Benefices) Measure 1986, providing that where no appointment has been made for nine months and the right of presentation lapses, the lapse should be to the diocesan bishop and not to the archbishop of the province.
48. The remaining subsections make consequential amendments to section 16.

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