

GENERAL SYNOD

**DRAFT BISHOPS AND PRIESTS (CONSECRATION AND ORDINATION OF
WOMEN) MEASURE
DRAFT AMENDING CANON NO 30**

REPORT OF THE STEERING COMMITTEE OF MEMBERS IN CHARGE

Membership

Chair: The Rt Revd Nigel McCulloch (Bishop of Manchester)

Members: The Very Revd Vivienne Faull (Dean of Leicester)
Dr Paula Gooder (Birmingham)
The Ven Ian Jagger (Archdeacon of Durham)
The Revd Canon Anne Stevens (Southwark)
Mrs Margaret Swinson (Liverpool)
Mr Geoffrey Tattersall QC (Manchester)
The Rt Revd Trevor Willmott (Bishop of Dover)
The Ven Clive Mansell (Archdeacon of Tonbridge) (from 12th
July 2010 to 22nd October 2011)

1. The draft Bishops and Priests (Consecration and Ordination of Women) Measure ('the draft Measure') and draft Amending Canon No 30 ('the draft Amending Canon') received First Consideration at the February 2009 group of sessions of the General Synod and were committed to a Revision Committee. At the July 2010 group of sessions, the Synod took note of the report of that Committee (GS 1708-09Y) and completed the Revision Stage for the draft Measure and the draft Amending Canon.
2. The draft Measure and the draft Amending Canon were then referred to the dioceses in accordance with the requirements of Article 8 of the Constitution of the General Synod. In that connection, diocesan synods were asked to consider a motion in the following terms:

'That this Synod approve the proposals embodied in the draft Bishops and Priests (Consecration and Ordination of Women) Measure and in draft Amending Canon No 30.'
3. Diocesan synods were asked to report the outcome of their consideration of the motion to the Clerk to the Synod by 5.00pm on 14th November 2011.
4. As reported in more detail in the report of the Business Committee on the Article 8 reference (GS 1847), a majority of diocesan synods voted in favour of the motion, and accordingly the draft Measure and the draft Amending Canon stood committed to the Steering Committee ('the Committee') under Standing Order 59(a) in respect of its Final Drafting.
5. The Committee has met once since the Article 8 reference process was completed to complete its work under Standing Order 59(a). It now returns the draft

Measure (GS 1708B) and draft Amending Canon (GS 1709B) to the Synod for Final Drafting.

6. Under Standing Order 59, at the Final Drafting Stage the Committee may propose 'Drafting Amendments' or 'Special Amendments' or both. These two categories of amendments are defined in Standing Order 59(g) as follows:
 - (a) a Drafting Amendment means an amendment where only the wording of the Measure is altered and not its substance; and
 - (b) a Special Amendment means an amendment considered necessary or desirable by the Steering Committee because the Measure is not sufficiently clear or because some criticism not considered by the Synod or any Revision Committee has been brought to the notice of the Steering Committee.

Drafting Amendments

7. The Committee has agreed the Drafting Amendments to the draft Measure set out in Part 1 of Annex A to this report and shown in bold type in GS 1708B, which were identified on final scrutiny of the draft Measure as necessary corrections to the text. An explanation for these Drafting Amendments is given in Part 2 of Annex A.
8. The Committee has agreed the Drafting Amendment to the draft Amending Canon set out in Part 1 of Annex B to this report and shown in bold type in GS 1709B, which was identified on final scrutiny of the draft Amending Canon as a necessary correction to the text. An explanation of this Drafting Amendment is given in Part 2 of Annex B.

Special Amendments

9. The Committee has not identified the need for any Special Amendments in respect of either the draft Measure or the draft Amending Canon.

Other matters considered by the Committee

The need for delegation by a male bishop

10. The Committee has considered the possibility of amending clause 2 of the draft Measure so as to allow a male bishop who has made a statement that he will not ordain women as priests to undertake the aspects of episcopal ministry referred to in clause 2 of the Measure in relation to parishes whose PCCs have issued a Letter of Request, rather than having to delegate them to another male bishop.
11. The background to this issue is as follows:
 - (a) Clause 2(4) will allow a male diocesan to make a statement that he will not ordain women as priests. Some diocesan bishops will wish to make such a statement, either because of their own theological position or so that (even if they have no conscientious difficulties themselves) their own episcopal ministry will be acceptable to those conscientiously unable to accept the

priestly or episcopal ministry of women. A diocesan bishop who makes a statement under clause 2(4) is likely to wish himself to be able to exercise episcopal ministry in parishes whose PCCs have issued a Letter of Request, and to include provision to facilitate that in the diocesan scheme.

(b) However, clause 2(1) will require that the episcopal ministry exercised in relation to parishes whose PCCs have issued a Letter of Request is to be by way of delegation; and a person cannot delegate to himself. So a diocesan bishop who makes a statement that he will not ordain women would be required to include arrangements in the diocesan scheme for episcopal functions to be carried out by another bishop in parishes which have issued a Letter of Request. As drafted, clause 2 could accordingly be seen as preventing a diocesan bishop from doing what the making of the statement was intended to allow him to do and requiring delegation in all cases, even where it was unnecessary.

12. The Committee accordingly considered whether to propose that clause 2 be amended by:

- (a) removing the reference to delegation to a male bishop from sub-clause (1); and
- (b) inserting a new sub-clause (2) to the effect that episcopal ministry exercised under arrangements in a diocesan scheme should be exercised (i) where the diocesan is a man, by himself or by way of delegation to a male bishop who is a member of the house of bishops of a diocesan synod and (ii) where the diocesan is a woman, by way of delegation to such a male bishop.

13. Having given the matter careful consideration, the Committee came to the conclusion not to propose an amendment to clause 2 of the kind described in paragraph 12.

14. It noted that the difficulty identified in paragraph 11 would only arise following the issue of a Letter of Request. Thus a male diocesan bishop who did not ordain women would continue to be able to exercise the full range of episcopal ministry in relation to parishes conscientiously unable to accept the episcopal ministry of women, provided that their PCCs did not issue a Letter of Request.

15. The Committee recognised that that did not provide a complete answer to the perceived difficulty, since there could be cases where the PCC of a parish wished to issue a Letter of Request even though it did not have any conscientious difficulty in receiving the ministry of the diocesan bishop - eg because it was conscientiously unable to accept the ministry of the *area* bishop. Nonetheless, the Committee was not persuaded that that justified the amendment of the Measure in the way described above: amending it in that way would involve drawing a sharp distinction between male and female bishops on the face of the Measure and put the latter in a different position from the former - an outcome which the Committee considered highly undesirable.

PART 1

DRAFTING AMENDMENTS TO THE DRAFT MEASURE

Note: The numbering refers to that in the draft Measure in the form in which it is printed as GS 1708B.

Clause 1

1. In subclause (3) leave out “(1993 No.2)” and insert “(No. 2)”.

Clause 2

2. In subclause (2) leave out the words “in office” and “on that date”.
3. In subclauses (3) and (8) leave out the words “of the diocese”.
4. In subclause (6) leave out the words “replace it with” and insert the word “make”.
5. At the end of clause 2, add the following subsections –

“(10) Any arrangements contained in a scheme made under this section shall have effect notwithstanding any instrument made or having effect as if made under section 13 or 14 of the Dioceses, Pastoral and Mission Measure 2007 (No. 1) or any scheme which continues in force by virtue of paragraph 5 of Schedule 6 to that Measure.

(11) Where any function exercised in pursuance of arrangements contained in a scheme made under this section requires the application of the bishop’s seal to a document, the document shall be issued as though it were a deed and be executed by the person authorised by the arrangements to discharge that function.”.

Clause 3

6. In subclause (3)(a) leave out “(1986 No. 3)” and insert “(No.3)”, and after “(No. 3)” insert the words “(the 1986 Measure)”.
7. In subclause (3)(b) leave out the words “subsection (4) applies” and insert the words “any of the circumstances specified in subsection (4) exist”.
8. In subclause (4) leave out “67 of the Pastoral Measure 1983 (No.1)” and insert “85 of the Mission and Pastoral Measure 2011 (No.3)”; leave out “24 or 69” and insert “38 or 87”; and after the words “that Measure and” insert the words “, in either case,”.
9. In subclause (5) after the word “died” insert the words “or otherwise left office”.

10. In subclauses (9) and (11) after the words “Letter of Request” insert the words “during a Vacancy”.
11. At the beginning of subclause (11) insert the words “Subject to subsection (13),”.
12. In subclause (11)(a) leave out the words “Patronage (Benefices) Measure 1986” and insert the words “1986 Measure”.
13. After subclause (12) insert the following subsection –

“(13) Where the parish belongs to a benefice to which section 23(a) or (c) of the 1986 Measure applies, subsection (11)(a) shall not apply, but the parochial church council shall not issue a Letter of Request under subsection (3)(a) unless the motion proposing the resolution has been considered at a meeting of the council held within the period referred to in section 11(1) of that Measure and subsection (7) shall apply in relation to such a meeting as it applies in the circumstances mentioned in that subsection.”.
14. In subclause (14) leave out “(13)” and insert “(15)”.
15. In subclause (17) leave out “(13)” and insert “(15)” and after the words “subsection (1)” insert the words “or following the expiry of the resolution under subsection (1)”.
16. After subclause (17) insert the following subsection-

“(18) Where, after a notice has been given by the bishop under subsection (8), a further scheme has been made for the diocese under section 2(1) or the scheme has been amended and the bishop considers that the further or amended scheme materially affects the arrangements set out in the notice, he or she shall, in a further notice, make such amendments to the arrangements as he or she considers are in accordance with the scheme and the notice given under subsection (8) shall have effect accordingly.”.
17. In subclause (19) leave out the words “or (16)” and insert “, (17) or (18)”.
18. In subclause (19)(a) leave out the words “or (16)” and insert “, (17) or (18)”.
19. In subclause (19)(f) leave out the words “Patronage (Benefices) Measure 1986” and insert the words “1986 Measure”.
20. In subclause (19)(g) leave out “a” and leave out the words “that Measure” and insert the words “the 1986 Measure”.
21. In subclause (19)(h) leave out the words in brackets.

Clause 4

22. In subclause (2) leave out the words “Patronage (Benefices) Measure 1986” and insert the words “1986 Measure”.

Clause 7

23. In subclause (1) leave out the words “(1), (2), (3), (6) and (7)” and insert the words “(3) and (6)”.
24. In subclause (1) leave out “(2010 c.15)” and insert “(c.15)”.
25. In subclause (1)(b) and (d) leave out the words “request made” and insert the words “Letter of Request issued”.
26. In subclause (1)(c) insert at the end the words “or (18)”.
27. Leave out the word “and” after paragraph (d) and, after paragraph (e), add the word “and” and the following paragraph –

“(f) the exercise of any function under clause 6.”

Clause 8

28. In subclause (1), at the beginning of the definitions, insert –

““bishop” includes “archbishop”;
29. In subclause (3)(a) leave out the words “Patronage (Benefices) Measure 1986 and insert the words “1986 Measure”.
30. In subclause (3)(d) leave out “(17)” and insert “(19)”.

Schedule 1

31. In paragraph 1 leave out “(1993 No.2)”.
32. In paragraph 2 leave out the words “, either before the commencement date or” and the words from “either” to “that paragraph,”.
33. In paragraph 3 at the end insert the words “of this Measure”.
34. In paragraph 4 leave out the words “Schedules 3 and 4” and insert the words “Schedule 3 or 4”.

Schedule 2

35. In Part I leave out the words “a scheme” and insert the words “the scheme”.
36. In Part II insert square brackets around the second sentence.

Schedule 3

37. In paragraph 1 leave out “(1969 No.2)” and insert “(No. 2)”.

38. In paragraph 2 leave out “(1986 No.3)” and insert “(No. 3)”.

39. In paragraph 2(b) after “35(7)” insert “(a)”.

40. In paragraph 3 leave out “(2007 No.1)” and insert “(No. 1)”.

Schedule 4

41. Leave out the entry relating to section 47(15) of the Dioceses, Pastoral and Mission Measure 2007.

42. Leave out the entry relating to the Pastoral Measure 1983 and insert the following entry –

“2011 No. 3, the Mission and Pastoral Measure 2011	In section 34(7), the Proviso. In section 35(1), the Proviso. In section 80, subsection (15).”
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PART 2

EXPLANATION OF THE DRAFTING AMENDMENTS

Amendment 5 confirms that arrangements under diocesan schemes take effect notwithstanding the terms of any other arrangements for episcopal delegation in the diocese and makes provision for the execution of documents required under such arrangements.

Amendment 13 modifies the application of clause 11(a) of the draft Measure in the case of multi-parish benefices and benefices held in plurality, to take account of the fact that in their case the Patronage (Benefices) Measure 1986 provides for the ‘section 11 meeting’ to be a joint meeting or meetings of the PCCs of the parishes concerned: the effect of the amendment is to provide that in such cases the resolution under clause 3(3)(a) constituting the Letter of Request during a Vacancy must be considered at a meeting of the PCC held within 4 weeks of the issue of the notice of vacancy under section 7(4) of the 1986 Measure.

Amendment 16 ensures that, where a diocesan scheme under clause 2 is amended or replaced by a further scheme in a way that materially affects the arrangements set out in the notice issued to a PCC under clause 3(8), the bishop must issue a further notice setting out arrangements reflecting the amended or further scheme.

The purpose of clause 7, to which Amendments 23 to 27 relate, is to prevent various provisions contained in the Measure conflicting with certain provisions of section 50 of the Equality Act 2010 (Public offices: appointments etc.)

Amendment 23 reduces the range of provisions of section 50 that are disapplied in relation to things done under the Measure. It is only necessary to disapply

subsections (3) and (6) of section 50 as these are the relevant operative provisions that would – were they not disapplied – conflict with provision made by the Measure. Subsections (1), (2) and (7) do not conflict with the provision made by the Measure and so do not need to be disapplied.

Amendment 27 brings clause 6 of the Measure (which imposes a duty to have regard to Code of Practice) within the ambit of the exception to section 50 of the Equality Act. This is necessary so that there is no conflict between exercising a function in accordance with the provisions of the Code of Practice and section 50 of the Equality Act.

The remaining Drafting Amendments improve the form and manner in which the draft Measure is expressed, including by reflecting the consolidation of provisions to which it refers by the Mission and Pastoral Measure 2011.

PART 1

DRAFTING AMENDMENT TO THE DRAFT AMENDING CANON

1. In paragraph 9(a) leave out the words “6, 7 and 8” and insert the words “6 and 7”.