

GENERAL SYNOD
DRAFT CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) MEASURE
DRAFT AMENDING CANON NO. 31
REPORT OF THE STEERING COMMITTEE OF MEMBERS IN CHARGE

Chair: The Reverend Paul Benfield (Blackburn)

Members: Mrs Julie Dziegiel (Oxford)
The Reverend Geoffrey Harbord (Sheffield)
The Venerable Jan McFarlane (Norwich)
Mrs Caroline Spencer (Canterbury)
Mrs Sheri Sturgess (Truro)

1. The draft Church of England (Miscellaneous Provisions) Measure ('the draft Measure') and draft Amending Canon No. 31 ('the draft Canon') received First Consideration from the General Synod at the July 2012 group of sessions and were committed to a Revision Committee. At the July 2013 group of sessions the Synod took note of the report of that Committee (GS 1866Y/1877Y) and completed the Revision Stage for the draft Measure which then stood committed to the Steering Committee under Standing Order 59(a) in respect of its Final Drafting.
2. The Steering Committee has conducted its remaining business by correspondence under Standing Order 59(f). It now returns the draft Measure (GS 1866B) and the draft Canon (GS 1877B) to the Synod for Final Drafting and Final Approval.
3. Under Standing Order 59, 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 59(g) as follows –
 - (i) a Drafting Amendment means an amendment where only the wording of the Measure is altered and not its substance; and
 - (ii) a Special Amendment means an amendment considered necessary or desirable by the Steering Committee because the Measure is not sufficiently clear or because some other criticism not considered by the Synod or any Revision Committee has been brought to the notice of the Steering Committee.
4. The Steering Committee has agreed the Drafting Amendments shown in bold type in GS 1866B, which have been identified on final scrutiny of the draft Measure as necessary corrections to the text. An explanation for each of these Drafting Amendments is given in Annex A.
5. The Steering Committee also proposes the Special Amendment set out in Part 1 of Annex B. An explanation for the proposed Special Amendment can be found in Part 2 of Annex B.
6. The Steering Committee does not propose any Drafting or Special Amendments to the draft Canon.

On behalf of the Committee
Paul Benfield
Chair

October 2013

**EXPLANATION OF DRAFTING AMENDMENTS TO THE DRAFT MEASURE
(shown in bold in GS 1866B)**

Clause 2

1. The amendment to the new section 25(4) is to take account of the possibility that while a faculty would normally be granted by the consistory court, it might be granted on appeal by an appellate court.

Clause 5

2. The amendment to the new section 3A is to make it clear that if a parochial church council enters into contracts of employment with its members or ‘connected persons’, the total number of members who either (a) are themselves employed by the council, or (b) have family members within the definition of ‘connected persons’ who are employed by the council, must constitute a minority of its members.

Clause 8

3. The amendment to the new subsection (5A) is to make it clear that the revocation of a permission granted under section 1 of the Overseas and Other Clergy (Ministry and Ordination) Measure must be in writing.

Clause 12

4. The first amendment to the new section 16A(1) improves the manner in which the provision is stated.
5. The amendment to the new section 16A(1)(b) replaces the words “instituted or collated” with the word “admitted” so as to be consistent with the rest of the section.
6. The two amendments to the new section 16A(5) make the effect of the provision and its relationship with the following subsection clearer.

Clause 15

7. The new subsections (3) and (4) have been added in order to give full effect to the intention of the clause.

Schedule 2, paragraph 5

8. Sub-paragraph (3) has been amended to remove the words “able to be” before “present” in new section 5(2)(b) of the Church Commissioners Measure 1949, in order to clarify the intended effect of the provision.
9. The new sub-paragraph (4) removes an existing entry from the list of Churches contained in Schedule 2 to the Sharing of Church Buildings Act 1969. This is because the entry for that Church is being replaced, in a slightly different form, by one of the entries in Schedule 3 to the draft Measure, which was inserted by the Revision Committee.

PART 1**PROPOSED SPECIAL AMENDMENT TO THE DRAFT MEASURE****Schedule 2, paragraph 9 – Patronage (Benefices) Measure 1986**

Page 22, after line 24, insert–

- “(6) In section 37(1), for the words “shall be in the prescribed form” there are substituted the words “shall, where the form of the notice is prescribed by the Patronage (Procedure) Committee, be in the prescribed form.”.

PART 2**EXPLANATION OF SPECIAL AMENDMENT**

1. Section 37(1) of the Patronage (Benefices) Measure 1986 provides that all notices required or authorised by that Measure are to be in “the prescribed form”. That means prescribed in rules made by the Patronage (Procedure) Committee established by section 38 of the 1986 Measure. Any such rules have to be approved by the General Synod and laid before Parliament as a statutory instrument.
2. The new section 16A (Special procedure for appointment of priest in charge as incumbent) that is to be inserted in the 1986 Measure by the draft Measure requires the giving of certain notices by the bishop and the patron. As matters stand those notices would be caught by section 37(1) so that they would have to be in a form prescribed in rules. The result of that would be that the new section 16A would not be operable until the Patronage (Procedure) Committee had been reconstituted and made rules prescribing the forms of the notices to be used and those rules had been approved by the General Synod and laid before Parliament. That would considerably delay the coming into operation of the new section 16A.
3. A further issue is that when the Patronage Benefices (Measure) came into force in 1987 the Patronage (Procedure) Committee only made rules prescribing the forms that were to be used for the purposes of Part 1 of the Measure (which is concerned with the registration of rights of patronage) and one or two matters required by Part 2. They did not make any rules prescribing the form of the notices that are to be used in relation to presentation to benefices. The result is that although certain standard forms concerned with the presentation to benefices have been in general use for some years, they are not forms that have been prescribed by the Patronage (Procedure) Committee and their use does not amount to compliance with section 37(1).
4. In the light of these difficulties, it is proposed that section 37(1) should be amended so that the requirement that notices be in “the prescribed form” applies only where such forms have in fact been prescribed by the Patronage (Procedure) Committee under section 38. That would mean that the existing standard forms relating to presentation to benefices can continue to be used and that standard forms can be prepared on a non-statutory basis by the Legal Office for use in connection with the new shortened procedure for appointing priests in charge as incumbents under section 16A.