

## GENERAL SYNOD

### STANDING ORDERS COMMITTEE

#### FORTY-NINTH REPORT OF THE COMMITTEE

1. The Standing Orders Committee ('the Committee') presents its 49th Report to the Synod.
2. Our membership for the current quinquennium is as follows:

**Appointed members:**

Mr Geoffrey Tattersall QC (Manchester) (Chair)  
 The Revd Canon Sue Booys (Oxford)  
 The Revd Canon Simon Killwick (Manchester)  
 Canon Elizabeth Paver (Sheffield)  
 Mr Clive Scowen (London).

(Since July 2013 there has been one vacancy.)

***Ex-officio* members:**

The Ven Christine Hardman (Prolocutor of the Lower House of the Convocation of Canterbury)  
 The Ven Cherry Vann (Prolocutor of the Lower House of the Convocation of York)  
 Dr Philip Giddings (Chair of the House of Laity)  
 Mr Tim Hind (Vice-Chair of the House of Laity).

#### PART I: PROPOSED AMENDMENTS TO THE STANDING ORDERS

3. Under Standing Order 39(c), proposed amendments to Standing Orders may be made under a 'deeming procedure' if the Business Committee so determines. The Business Committee has determined that all the amendments proposed by the Standing Orders Committee ('the Committee') in this report should be dealt with in that way.
4. However, any amendment proposed to be dealt with under the deeming procedure must be debated if (i) notice is given by not less than five members that they wish the proposed amendment to be debated or (ii) notice is given by any member of an amendment to the proposed amendment.

**Item 32**

**Standing Order 53 (Revision Committee Stage) – Agreeing the Report of a Revision Committee by correspondence**

5. Standing Order 53(g) makes provision for a Revision Committee to conduct its business (including agreeing its report to the Synod) by correspondence "*where no proposal for amendment is received or where one or more proposals are received but no member who has submitted a proposal gives notice under paragraph (c) of this Standing Order [of a desire to attend and speak to that proposal at a meeting of the Revision Committee]*".

6. The intended meaning of this provision is not entirely clear. However, the better view appears to be that, if members have attended the Committee to speak to their proposals for amendment, the terms in which the Standing Order are expressed mean that the Committee's report cannot be agreed by correspondence, convenient as that might otherwise be (eg because the number of proposed amendments or other issues is insufficiently large to justify a meeting held simply for the purpose of agreeing the text of the Revision Committee report). In consequence the Committee will need to hold an additional meeting simply for the purpose of considering and agreeing its report.
7. The Committee accordingly proposes that Standing Order 53(g) should be amended to make it clear that, provided the Chair agrees, the Revision Committee may agree its report by correspondence in all cases, regardless of whether there has previously been a meeting to consider proposals from members.
8. **Item 32** accordingly gives effect to that proposal.
9. The new provision proposed by the Committee allows circulation by email (as do the corresponding provisions in relation to the conduct of business by the Business, Appointments and Standing Orders Committees (SO 118A(b)) and the Legislative Committee (SO 114(h)). The Committee proposes that the length of time given to members for responses should be not less than seven days (as required under the existing SO 53(g)) but that the level of support required for the proposals should differ according to the length of time given to the Committee to respond: if members are given 14 days or more, approval by a majority of members will suffice; but if they are given less than 14 days in which to respond, approval should require their unanimous consent (silence being taken as consent for that purpose).

### **Items 33 and 34**

#### **Canons: Standing Orders 65 (Procedure for Considering Drafts) and 66 (Procedure for Enactment)**

10. Standing Order 66(a) makes provision for the procedure for the enactment of a Canon, including by providing that the relevant motion should be in the form
 

*“That the new Canon (Short Title) be promulgated and executed”*.
11. The position as regards the making of Canons is that, before 1970 (when the power to make Canons belonged to the Convocations), the procedure for enacting a Canon involved a motion *‘That the new Canon be enacted and promulgated’*. That motion having been passed, the Canon was read by the Archbishop and the instrument of enactment was then signed by the Archbishop and others.
12. The functions of the Convocations in relation to the making of Canons were vested in the General Synod in 1970 by the Synodical Government Measure 1969. The Constitution of the General Synod includes among the Synod's functions the making of provision *“by Canon made, promulgated and executed in accordance with the like provisions and subject to the like restrictions and having the like legislative force as Canons heretofore made, promulgated and executed by the Convocations of Canterbury and York”* (see Article 6(a)(ii)). Section 1(3) of the 1969 Measure expressly applies the Submission of the

Clergy Act 1533 to the making, promulgating and executing of Canons by the General Synod.

13. Accordingly, the General Synod has in effect inherited the position of the Convocations. That means that the General Synod can consider and agree the content of draft Canons at any time. But, like the Convocations, it cannot make Canons until after the Royal Assent and Licence has been obtained, as required by the 1533 Act.
14. As was the case in the Convocations, the making of a Canon requires a decision of the General Synod following the receipt of the Royal Assent and Licence. (The decision at the final approval stage of a Canon is only a decision to approve a draft Canon.) The provisions of SO 66(a) are, accordingly, a necessary part of the process. The Canon does not become law unless and until the Synod decides that it should be enacted and the instrument of enactment is signed in accordance with the Synod's decision.
15. Against this background it is strange that the form of motion specified in SO 66(a) does not state in terms that the Synod 'enacts' or 'makes' the Canon, with the result that it does not properly reflect the various processes in connection with a Canon – as exemplified by the wording of s.1 of the Submission of the Clergy Act 1533, which uses the expression "*enacte promulge or execute*". As that suggests, the three different aspects of the process are 'enacting' the Canon (ie making it), 'promulgating' it (ie communicating it) and 'executing' it (ie enforcing it). Thus the present form of motion does not expressly address the first aspect of the process with which it is expressly concerned – namely the 'enacting' or 'making' of the Canon – but merely refers to the communicating and enforcing of it.
16. It is desirable that the motion should be amended to refer to the aspect of the process with which it is most immediately concerned: whilst the motion can be assumed to 'enact' or 'make' the Canon by implication, since it could not be 'promulgated and executed' if it had not already been enacted, in the interests of clarity as to just what the Synod is doing it would seem preferable that the motion state expressly that the Synod agrees to 'make' it. The Committee accordingly proposes that SO 66(a) be amended so that the form of motion it specifies for the process for enactment should read:

*"That the new Canon (Short Title) be made, promulgated and executed"*.

17. **Item 34** gives effect to this proposal. It and **item 33** also make corresponding amendments in relation to the description of Her Majesty's Royal Assent and Licence.

### **Item 35**

#### **Standing Order 69 (Procedure for Deeming) – Giving notice of an amendment to an item of 'deemed business'**

17. Standing Order 69(c) provides a mechanism by which a member may give notice of an amendment to an instrument which has been designated by the Business Committee under Standing Order 69(a) as 'deemed business'.
18. Standing Order 69(c) provides that notice of such an amendment must be given "*by not later than 5.30 pm on the day which falls one clear day (excluding Saturday and Sunday) before the first day appointed for such business to be considered or if no such day is*

*appointed the first day of the group of sessions at which the instrument has been laid or introduced”.*

19. This provision is ambiguous in that it is unclear whether the words “*one clear day ... before*”–
  - (a) only apply where a day is appointed (by way of contingency) for the deemed business to be considered; or
  - (b) apply both in those circumstances and where no such day is appointed.
20. If (a) is the correct interpretation and no day is appointed, notice of the amendment can be given on the first day of the group of sessions itself. However, if (b) is the correct interpretation and no day is appointed, notice of the amendment must be given one clear day (excluding Saturday and Sunday) before the first day of the group of sessions.
21. The Committee considers that the position should be clarified and proposes that the provision be amended to make it clear that the words “*one clear day ... before*” apply only where a day is appointed (by way of contingency) for the deemed business to be considered, thus allowing notice of an amendment to be given on the first day of the group of sessions.
22. **Item 35** gives effect to that proposal.

### **Items 36 to 38**

#### **Standing Orders 123 (Secretary General) and 123A (Clerk to the Synod) – Approval of Appointments**

23. In its paper *The Appointment of Synod Senior Staff: Proposed Changes to the Synod’s Standing Orders* (GS Misc 1072), the Archbishops’ Council proposes certain changes to the arrangements for the appointment of the Secretary General and the Clerk to the Synod. The Committee accepts the case for change, and proposes that, if the Council’s proposals are to be given effect, the Standing Orders should be modified in the way proposed in **items 36 to 38**.

## **PART II: OTHER MATTERS**

### *Revision Committees meeting in public*

24. In its 47th Report (GS 1884) the Committee addressed a number of issues relating to the procedures of Revision Committees for draft legislation, including that of whether such committees should meet in public. The Committee explained that it was not of one mind on this issue, recognising that there are competing considerations in play.
25. In the event, the 47th Report was not subject to any debate at the November 2012 group of sessions, with the consequence that the Synod was also unable to debate a following motion on this issue, notice of which had been given by Mr Clive Scowen. (That motion called for the amendment of Standing Orders so as to require Revision Committees to meet in public unless, for good reason, they considered it necessary not to do so.)

26. As the question of whether Revision Committees should be required to meet in public remains a live issue, the Committee regrets that it has not yet been the subject of any debate in the Synod and hopes that at some point it may be possible for it to be brought before the Synod for decision.

*The possible consolidation of the text of the Standing Orders*

27. The text of the Synod's Standing Orders has not been the subject of any systematic review or revision for many years. Since such a process last took place, however, the Standing Orders have been amended extensively, but on a piecemeal basis.
28. The Committee therefore considers that the election of a new Synod in 2015 would represent a suitable point for the introduction of a lightly revised and consolidated text of Standing Orders, which is expressed and presented in as simple and straightforward a way as possible and using gender non-specific language whilst not altering the underlying rules of procedure - which generally serve the Synod well and to which its members are accustomed.
29. The Committee and its staff are accordingly starting to undertake preparatory work with a view to producing a consolidated text which achieves these goals, if possible in time for the inauguration of the new Synod in November 2015. That is likely to involve a two-stage process, with pre-consolidation amendments being proposed to the Synod in February 2015 and a consolidated text being put before it for approval in July 2015.
30. If members have any views on changes they would wish to see made, as part of this process, to the way in which the Standing Orders are expressed or presented, they are asked to let the Committee know.

On behalf of the Committee:

**Geoffrey Tattersall QC**  
Chair

June 2014