

GENERAL SYNOD

CONSECRATION OF WOMEN TO THE EPISCOPATE: FUTURE PROCESS

Note from the Secretary General

1. The Business Committee thought that Synod members would find it helpful to have a description of the stages which now have to be gone through before the legislative process in relation to the admission of women to the episcopate can be concluded. Because the draft legislation constitutes Article 7 and Article 8 business the processes are more than usually complex.
2. The attached note from the Legal Office provides a comprehensive account of what can happen at each stage. It also runs through the various stages that would follow final approval, both in Parliament and in the Synod.
3. Since the attached note necessarily covers a whole range of possible contingencies the Business Committee thought that it should be accompanied by a short description of a possible timeline on the assumption that each stage was successfully concluded at the first attempt, that there was no further reference to the dioceses under Article 8 and that Final Approval was secured.
4. On that set of assumptions, the possible timeline over the coming months would be as follows:
 - February 2012** - Presentation on illustrative draft Code of Practice
 - 'Take note' debate on report of Article 8 reference
 - Consideration of Diocesan Synod Motions
 - Final Drafting Stage
 - May 2012** - House of Bishops consideration under Article 7
 - July 2012** - Consideration by House of Laity and Convocations (if reference is claimed) in York immediately before start of General Synod
 - Final Approval Stage.
5. The timing after this would pass out of the hands of the Synod since, once the necessary material had been sent by the Legislative Committee to the Ecclesiastical Committee of Parliament, it would be for the parliamentary authorities to timetable the business. The three parliamentary stages are consideration by the Ecclesiastical Committee, debate in the House of Commons and debate in the House of Lords (there is no set order as between the Lords and Commons debates).
6. The hope would be that Parliament would be able to conclude consideration of the legislation in time for Royal Assent to the Measure to be given by December 2012, thereby enabling the House of Bishops to make the Code of Practice in December and bring it to the Synod for consideration in February 2013. In addition the Synod would need then to consider the terms of a draft Act of Synod rescinding the Episcopal Ministry Act of Synod. Both the Code and the Act of Synod would constitute Article 7 business.
7. If it proved possible to conclude all the stages relating to the Code of Practice and the Act of Synod (including the Article 7 references) during the February 2013 group of sessions then it would, subject to receipt of the Royal Assent and Licence for the Amending Canon, be possible for the final stage- the promulgation of the Amending Canon – to occur in July 2013. It is important to be clear, however, that this is the earliest possible date and is dependent both on decisions that the Synod itself and its various Houses have yet to take and on how quickly Parliament and Her Majesty's advisers respectively would be able to deal with the Measure and the Amending Canon.

William Fittall
Secretary General

January 2011

Final Drafting Stage (SO 59)

1. This stage, which will be taken at the February 2010 group of sessions, takes place on the basis of a report from the Steering Committee, in which it must distinguish between ‘drafting amendments’ and ‘special amendments’. Drafting amendments are ones which only alter the wording of the draft legislation and are made without being moved. Special amendments are ones considered necessary or desirable by the Steering Committee because the draft legislation “*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*” (SO 59(g)).
2. The Steering Committee for the draft legislation do not propose any special amendments.
3. Only the Steering Committee can propose amendments at the Final Drafting Stage. The Steering Committee’s report, including any proposed drafting amendments, will be the subject of a ‘take note’ debate.
4. If the ‘take note’ motion were not carried, the Final Drafting Stage could not be taken further and the legislative process would accordingly come to a halt.
5. Under SO 59(c) it is open to a member of the Synod to move before the ‘take note’ debate is completed, that a drafting amendment be recommitted to the Steering Committee for further consideration before the Final Drafting Stage is completed.
6. Were such a motion to be moved and carried the drafting amendment in question would need to be considered by the Steering Committee, with the result that completion of the Final Drafting Stage would have to be postponed pending that further consideration. Such further consideration could in principle be concluded during the group of sessions in time for the Final Drafting Stage to be concluded before the Synod was prorogued, but whether that was feasible in practice would depend on the circumstances.
7. In the absence of any such motion being moved and carried, on the ‘take note’ motion being carried the drafting amendments specified in the Steering Committee’s report would be deemed to have been made (SO 59(c)).

Consideration by the House of Bishops (SO 60)

8. Once the Final Drafting Stage is completed the draft legislation will stand referred to the House of Bishops (SO 60(a)).
9. The House has power to amend the draft legislation “*as it thinks fit*”, acting in accordance with its Standing Orders (SO 60(b)).
10. This stage is expected to be taken at the meeting of the House scheduled for May 2012.
11. Under SO 10(b) of the Standing Orders of the House, its Chairman, or a member of the House nominated by him, must present the business to the House. Notice of amendments must be given by the specified time and, when all the amendments have been disposed of, for the draft legislation to proceed further the House must pass the following motion (on a simple majority) in relation to both items of draft legislation:

“That subject to the requirements of the Standing Orders of the Synod concerning reference of the business to the Convocations and to the House of Laity, the [the draft Measure / draft Amending Canon] be returned to the Synod in the form approved by the House for consideration on the Final Approval stage.”

12. If this motion is not carried in respect of either the Measure or the Canon, the draft item of legislation in question will not proceed further.
13. If motions are carried in respect of both the draft Measure and the draft Canon, they will return to the Synod for Final Approval, subject to the possibility of the Convocations or the House of Laity claiming a reference under Article 7.
14. The normal rules in relation to meetings of the House apply.

Article 7 reference (SO 86 et seq)

15. Under Standing Order 86, as soon as possible after the House of Bishops has passed a motion for the return of the draft legislation to the Synod for Final Approval, the question whether that business is required to be referred to the two Convocations sitting separately and the House of Laity needs to be decided.
16. Under Article 7(3) of the Synod’s Constitution, the question whether such a reference is required by either Convocation is to be decided by the relevant President and Prolocutor, after the Prolocutor has consulted the Standing Committee of the Lower House (in the case of Canterbury) or the Assessors of the Lower House (in the case of York). Their decision is conclusive - save that, if before such a decision is taken, either House of Convocation resolves that the draft legislation must be referred, or both Houses resolve that it shall not be referred, that is conclusive of whether or not there will be a reference.
17. In the case of the House of Laity, the question whether a reference is required is to be conclusively determined by the Chair and Vice Chair after consulting the Standing Committee - save that if, before such a decision is taken, the House itself resolves that a reference is or not required, its resolution is conclusive of that question.
18. The decisions of the Convocations and the House of Laity must be conveyed in writing to the Clerk to the Synod by the Presidents and Prolocutors of each Convocation and by the Chair and Vice Chair of the House of Laity respectively.
19. If a reference is required, the draft legislation stands referred to the two Convocations and the House of Laity and further proceedings in the Synod relating to the draft legislation are postponed until the Article 7 references to the Convocations and House of Laity have been completed (SO 86(c)).
20. The form in which any business is referred to the Convocations in the House of Laity, together with the nature and content of any accompanying report or other documents, is to be determined by the Business Committee – subject to any direction of the Synod (SO 86(d)).
21. The consideration of the draft legislation by the two Convocations and the House of Laity is to take place *“not later than the beginning of the next group of sessions”* after the decision to seek a reference (SO 87(a)). Thus, if the House of Bishops were to pass the necessary resolution(s) at its meeting in May 2012, and a reference under Article 7 is claimed before the July 2012 group of sessions, the two Convocations and the House of Laity would need to hold the necessary meetings immediately before the July 2012 group of sessions.

22. The Convocations and the House of Laity have no power to amend the draft legislation, having simply to debate a motion that it be approved (SO 87(a)). No special majority is required.
23. In the case of the Convocation of Canterbury, unless the President and the Prolocutor decide otherwise, the draft legislation must be considered by the Houses sitting separately. If the matter is considered in full Synod, the vote is to be taken on a division by Houses. In the case of the Convocation of York, unless either the President or the Prolocutor decides otherwise, the draft legislation must be considered in full Synod. But again, if the matter is considered in full Synod the vote is to be taken on a division by Houses.
24. In both Convocations and in the House of Laity, each item of draft legislation needs to be the subject of a motion that it be approved. No amendment can be moved to the motion and it is not in order to move the motions for Next Business, the Closure or the Speech Limit.
25. If the approval motion is carried by each House of both Convocations and by the House of Laity, the draft legislation will be referred back to the Synod for the Final Approval Stage (SO 87(c)).
26. If the approval motion is rejected by more than one House of one Convocation or by the House of Laity, further consideration of it is terminated and it will not be possible to introduce "*business containing the provision or provisions objected to or other provision to the like effect*" until a new Synod has come into being in 2015 (SO 87(d)).
27. If the approval motion is rejected by only one House of one Convocation, it would be open to any member of the Synod to move at the next group of sessions (which would mean July 2012 assuming the reference had been claimed prior to that group of sessions) that the draft legislation be again referred for approval by the two Convocations only (SO 88(a)). Were such a motion to be passed, the further reference would have to take place "*not later than the beginning of the next group of sessions after any decision [that the draft legislation be again referred for approval by the two Convocations only]*".
28. The procedure in each Convocation on such a further reference would be as described above.
29. In the event that the approval resolution was again rejected by one House of one Convocation only, any member of the Synod could move at the next group of sessions that the draft legislation be referred for approval by the House of Bishops and the House of Clergy (SO 89(a)).
30. If a motion to that effect were carried, not later than the beginning of the next group of sessions the Houses of Bishops and Clergy would have to meet separately to consider the draft legislation (SO89(b)).
31. Neither House would have power to amend the draft legislation, the motion before each one simply being one for its approval (SO89(c)). That motion would not be carried, however, unless two-thirds of the members of each House present and voting supported the motion (SO 89(d)). It would not be possible to move the motions for Next Business, the Closure or the Speech Limit in the course of the debate on the approval motion.
32. If the motion were carried in both the House of Bishops and the House of Clergy the draft legislation would be referred back to the Synod for Final Approval (SO 89(e)).
33. If the motion were lost in either House, however, further consideration of the draft legislation would be brought to an end and it would not be possible to introduce "*business containing the same provision or provisions objected to or other provisions to the like effect*" until a new Synod had come into being in 2015 (SO 89(f)).

Final Approval (SO 61)

34. As Article 7 and Article 8 business, the draft legislation cannot be considered on the Final Approval Stage unless, immediately before the motion for Final Approval is moved, the Chair (who must be one of the Presidents) declares on behalf of both the Presidents, the Prolocutors and the Chair and Vice Chair of the House of Laity that the requirements of Articles 7 and 8 of the Constitution have been complied with (SO 92).
35. There will need to be two Final Approval motions, one for the draft Measure and one for the draft Amending Canon. No amendment to the motions can be moved, and nor can the motions for the Closure, the Speech Limit or Next Business (SO 61(a)).
36. However, it is open to any member of the House of Bishops or a member of the Steering Committee to move *“That the debate be now adjourned to enable [the item of draft legislation concerned] to be reconsidered by the House of Bishops”* (SO 94(a)).
37. Unless such a motion has been carried it is also open to any member, provided they have the Chair’s permission, to move *“That the debate be now adjourned to enable [any amendment they have made to the draft legislation under Standing Order 60] to be reconsidered by the House of Bishops”* (SO 94(b)).
38. In the event that either type of motion is carried, the item of draft legislation concerned must be referred back to the House of Bishops, which can amend any part of the text (in the case of the first type of motion) or the part of the text altered by any earlier amendment (in the case of the second type of motion) (SO 94(d)). The item of draft legislation concerned must then be returned to the Synod to enable it to resume the Final Approval debate – but with the possibility of the Convocations and the House of Laity claiming a further Article 7 reference under Standing Order 86 (SO 94(f)).
39. A two-thirds majority in each House of the Synod is required for the Final Approval of the draft Measure. The Final Approval of the Amending Canon requires no special majority but in practice the Final Approval motion would not be moved in respect of the Amending Canon if the Measure itself were not approved with the requisite majority, as the Measure contains the statutory authority for the provision made by the Canon.

The Parliamentary stages for the draft Measure

40. In the event that the Synod gives the draft Measure Final Approval, it stands committed to the Legislative Committee (SO 61(e)).
41. In accordance with its normal practice, the Legislative Committee will prepare ‘Comments and Explanations’ on the Measure and submit them, with the Measure, to the Ecclesiastical Committee of Parliament.
42. The Ecclesiastical Committee may, either of its own motion or at the request of the Legislative Committee, invite the Legislative Committee to a conference to discuss the provisions of the Measure, in which event a joint conference will be held accordingly.
43. If, following the issue of a draft report on the Measure by the Ecclesiastical Committee under s.3 Church of England Assembly (Powers) Act 1919, the Legislative Committee signifies its desire that the report be presented to Parliament, the report will be so presented.

44. Arrangements will then be made for the moving of motions in both Houses of Parliament that the Measure to be presented to Her Majesty for the Royal Assent.
45. Provided both Houses pass motions agreeing that the Measure be presented for the Royal Assent, the Royal Assent will be given in the normal way.

Withdrawal and reintroduction of the Measure

46. It is open to the Legislative Committee, at any time before the Ecclesiastical Committee presents its report to Parliament, to withdraw the Measure from consideration by the Ecclesiastical Committee – in which case it must report the withdrawal to the Synod, stating the reasons for it (SO 63(a)).
47. Following such withdrawal, the Legislative Committee can move a motion in the Synod that the Measure be reintroduced to the Synod and, if that motion is carried, the Committee may then move an amendment to any clause, or for the withdrawal of a clause or for the insertion of a new clause (SO 63(b)). Other members can only move such a motion or amendment with the permission of the Chair and the general consent of the Synod.
48. Following consideration of any such motions a motion may be moved for the Final Approval of the reintroduced Measure, in accordance with the requirements of SO 61 (SO 67(b)).
49. Once finally approved, the amended Measure must be referred to the House of Bishops under SO 60 as if the Final Drafting Stage had been completed, but on the basis that the House can only consider those clauses which have been considered by the Synod on the reintroduction of the Measure, and any other clauses relevant to them (SO 63(d)).
50. In the event that the Presidents, Prolocutors and Chair and Vice Chair of the House of Laity determine that any amendments proposed to the Measure on its reintroduction would alter the substance of the proposals in it which had been approved by the majority of the diocesan synods, the Presidents must inform the Synod to that effect and, if any of those amendments are carried, the Measure must be referred again to the diocesan synods under Article 8 before being referred to the House of Bishops (SO 67(d)).
51. On completion of the Synodical processes in relation to the reintroduced Measure, it again stands committed to the Legislative Committee, which must return it to the Ecclesiastical Committee for further consideration.

Reintroduction of the Amending Canon

52. Under SO 67, before it had been promulgated but following its Final Approval, the Amending Canon could (if the Business Committee considered it necessary) be reintroduced to the Synod, amended and resubmitted for Final Approval. But in that event similar constraints and consequences would apply to those applicable in the event that the Measure were reintroduced and amended, including the possibility of a further reference to the dioceses under Article 8 if the amendments altered the substance of the proposals in the Canon. A further reference to the House of Bishops under Article 7 would also be required, followed, if required by any of them, by further references to the Convocations and the House of Laity.

Making the Code of Practice

53. On the giving of the Royal Assent, the Archbishops will be invited to make an instrument bringing s.5 of the Measure into force so as to enable the House of Bishops to make the Code of Practice under the Measure.
54. The House will then make the Code.
55. The first Code under the Measure will represent Article 7 Business.
56. Having been approved by the House, under s.5(4) of the Measure it will then have to be laid in draft before the Synod, which will have power to amend it. The Code will need to be considered under the 'Preliminary Motion procedure' for which provision is made in SO 71. That will firstly involve a debate on the motion that the draft Code be 'considered'. If that motion were not to be carried, consideration of the draft Code at the group of sessions concerned would come to a halt. Were it to be passed, however, the Synod would proceed to debate any amendments to the Code of which notice had been given, subject to the operation of the '40 member rule' (SO 71(b)).
57. Once any amendments had been disposed of, or, if there were no amendments, following the passing of the motion that it be considered, the Code would automatically stand committed to the House of Bishops (SO 71(d)).
58. The House would have power to amend the Code as it thinks fit before returning it to the Synod for Final Approval (SO 84).
59. However, before the draft Code were returned to the Synod for Final Approval, the Convocations and House of Laity could claim a reference under Article 7, with the possible need to comply with the process described in paragraphs 15 to 33 above (SOs 84 and 86).
60. On its return to the Synod for Final Approval, the Code would be considered on a motion that it be 'finally approved', in accordance with the requirements of Standing Order 61 (SO 93). No amendments to that motion would be in order and the motions for the Closure, the Speech Limit and Next Business could not be moved. Only a simple majority would be required.
61. There is nothing in principle to prevent these various stages all being taken at a single group of sessions, but whether that would be possible in practice would depend on what amendments of any were carried, what view the House then took of them and the outcome of any Article 7 references.

Rescinding the Act of Synod

62. As part of the process of implementing the new legislation, the Episcopal Ministry Act of Synod will need to be formally rescinded, by a further Act of Synod.
63. As it would also represent Article 7 business, the rescinding Act of Synod would (like the draft Code of Practice) need to be considered under the 'Preliminary Motion Procedure' for which provision is made in SO 71. That involves preliminary consideration by the Synod (which could be at the same group of sessions as that at which it gives preliminary consideration to the draft Code) on a motion that it 'be considered', before being referred to the House of Bishops and (if they claimed a reference) to the Convocations and the House of Laity.
64. Final Approval could be taken at the same group of sessions as that at which the draft Code of Practice is submitted for Final Approval. (The rescinding Act of Synod would be drafted so as only to take effect when the Measure came into force.) On its Final Approval the Act of Synod

would need to be solemnly affirmed and proclaimed in accordance with the requirements of Standing Order 40.

Promulgation of the Amending Canon

65. At the same group of sessions at which the Synod was invited to give Final Approval to the draft legislation, it would be asked to approve a petition for Her Majesty's Royal Assent and Licence to promulge and execute the Amending Canon. The petition would not, however, be submitted to Her Majesty until the Measure had received the Royal Assent and s.1(2) had been brought into force – which would not take place until after the Code had been given Final Approval. The Amending Canon would then be considered by those advising Her Majesty from the point of view of whether advice could be tendered to the effect that the Royal Assent and Licence should be given.
66. Following receipt of the Royal Assent and Licence, the Amending Canon could be promulgated. Because the petition for the Royal Assent and Licence could not be submitted until after the Code had received Final Approval and s.1(2) had been brought into force, promulgation would need to take place at a later group of sessions than that at which the Code had received final approval.

Coming into force

67. Once the Amending Canon had been promulgated, a further commencement instrument would be made so as to bring the remaining provisions of the Measure into force.

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