

GENERAL SYNOD

DRAFT CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) MEASURE

REPORT OF THE STEERING COMMITTEE OF MEMBERS IN CHARGE

Chair: Ms Josile Munro (London)

Members: The Revd Canon Paul Cartwright (Leeds)
Mr John Freeman (Chester)
The Ven. Martin Gorick, Archdeacon of Oxford (Oxford) (Chair of the Revision Committee)
Mr James Lee (Guildford)
The Revd Canon Rebecca Swyer (Chichester)

1. The draft Church of England (Miscellaneous Provisions) Measure received First Consideration from the General Synod at the July 2017 group of sessions. It was committed to a Revision Committee.
2. At the February 2018 group of sessions the Synod took note of the report of the Revision Committee (GS 2064Y). The Synod completed the Revision Stage for the Measure which then stood committed to the Steering Committee in respect of their final drafting.
3. The Steering Committee has conducted its business by correspondence under Standing Order 61(2) and (3). It now returns the draft Measure (GS 2064B) for Final Drafting and Final Approval.
4. Under Standing Order 61, 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 61(6) as follows –

“drafting amendment” means an amendment to clarify any remaining uncertainties of meaning or to improve the drafting, and

“special amendment” means an amendment, other than a drafting amendment, considered necessary or desirable by the Steering Committee and which does not reopen an issue which has been decided by the Synod or any Revision Committee in relation to the Measure or Canon.
5. The Steering Committee has agreed the drafting amendments shown in bold type in GS 2064B, which have been identified on final scrutiny of the draft Measure and Canon. The amendments are explained in the Annex to this report.
6. The Steering Committee does not propose any special amendments.

On behalf of the Committee
Josile Munro
Chair

June 2018

ANNEX

CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) MEASURE FINAL DRAFTING AMENDMENTS

Clause 2 (land registration: disposals of church land)

1. The amendments to this clause reflect the further discussions that have taken place with HM Land Registry since the Revision Committee met.
2. On subsection (2), the additional words at the beginning of the new Form D in the Land Registration Rules 2003 are intended to ensure conformity with Land Registry process.
3. Subsection (4) imposes two further requirements on an applicant for a certificate under the new procedure. First, the amended paragraph (c) requires the applicant to give reasons for the restriction sought. Second, the new paragraph (d) requires an applicant who is not yet the registered proprietor of the land in question to provide evidence of the entitlement to become the registered proprietor.

Clause 4 (funerals: conduct)

4. On subsection (7), the new subsection (4A) to be inserted into section 2 of the Church of England (Miscellaneous Provisions) Measure 1992 now refers to a duly “authorised” (rather than “licensed”) deaconess, reader or lay worker. The new wording will cover any deaconess, lay worker or reader who is authorised under Canon to conduct funerals and any reader who is not licensed but has written permission to officiate.

Clause 6 (terms of service)

5. Subsections (2), (3) and (8) make amendments that are consequential on the Ecclesiastical Offices (Terms of Service) (Amendment) Regulations (S.I. 2017/316). Those Regulations provide for office-holders under common tenure to continue in office after they reach the retirement age, and accordingly restrict section 3 of the Ecclesiastical Offices (Age Limit) Measure 1975 to offices not held under common tenure. Consequential amendments are required to sections 1 and 2 of the Bishops (Retirement) Measure 1986 and section 3 of the Ecclesiastical Offices (Terms of Service) Measure 2009 so that they too provide for the case of offices held under common tenure.
6. On subsection (10), the definition of “dependant” in paragraph (7) of the replacement regulation 23 has been amended to clarify its application to the case of an office-holder, given that the provision on which the definition is based relates to employees.
7. Subsection (12) provides for the consequential amendments referred to in paragraph 4 above to have retrospective effect in order to avoid any question there might otherwise be about the operation of the provision to date. There are consequential amendments to the commencement provisions in clause 17(2)(b).

Clause 8 (fees)

8. Subsection (1) amends section 1(1) of the Ecclesiastical Fees Measure 1986 so as to refer to a duly “authorised” (rather than “licensed”) deaconess, lay worker or reader in the context of

parochial fee orders. The amendment is made in light of the change to clause 4(7) mentioned above, but is included in this clause as the duties to which a parochial fee order could relate are not limited to the conduct of funerals.

9. The provisions which were in subsections (2) and (3) of this clause in the previous print of the Measure have been removed as they are no longer required. The Registration of Births, Deaths, Marriages and Civil Partnerships (Fees) (Amendment) Regulations 2017 (S.I. 2017/947), which came into force on 1 November 2017, make amendments to the same effect (see paragraphs 4 and 6 of the Schedule to those Regulations).

Clause 9 (General Synod: timing of sessions and membership of House committees)

10. The provision which was in subsection (2) of this clause in the previous print of the Measure has been removed, and some drafting amendments have been made, in consequence of the amendments made by Synod at Revision Stage in February 2018. The Synod agreed to amendments which would expressly enable the Synod to vary or cancel meetings for which it had provided and the Presidents to vary or cancel directions they had given. But the Synod rejected an amendment that would have made the initial power to provide for the times and places of meetings to be exercisable either by the Synod or by the Presidents, so that whichever of them acted first would prevail.
11. To give full effect to the changes agreed by Synod, some minor drafting amendments are required. What was subsection (2) of this clause in the previous print of the Measure (which would have provided for the Presidents to make provision “instead of” provision made by the Synod) is no longer required because of the more detailed provision made by the Synod as to how to make a variation or cancellation. The wording of the new paragraphs (1A) and (1B) to be inserted in Article 3 of the Constitution has been adjusted for consistency with the existing paragraph (1) and to acknowledge the possibility that, for any given meeting, the Synod and the Presidents may each have made some provision. The amendments to subsection (4) of the clause are consequential on the different approach taken to variation and cancellation.

Clause 13 (disqualification as a trustee)

12. On subsections (2) and (4), parenthetical words have been added to clarify the application of the transitional provision.

Clause 14 (provision of services to PCC by member)

13. On subsection (1), parenthetical words have been added at the end of the new section 7A which is to be inserted into the Parochial Church Councils (Powers) Measure 1956. As the new section 7A provides for the application of section 185 of the Charities Act 2011 with modifications, some additional wording has been included to make the purpose of the provision express for the sake of transparency.

Clause 15 (pastoral schemes and orders: notice and approval)

14. There is a lacuna in the procedure under sections 11 and 12 of the Mission and Pastoral Measure 2011 for an appeal against a pastoral scheme in a case where there is a deanery plan. As clause 15 already deals with pastoral schemes, it is convenient to take this opportunity to remove the uncertainty. The new subsection (2) applies the necessary elements of the

procedure for appeals against pastoral schemes generally. The new subsection (4) makes consequential and supplementary provision.

15. A printing error has recently been spotted in paragraph 9(10) of Schedule 3 to the Mission and Pastoral Measure 2011. The text of the Queen's Printer's copy reads—

“(10) The provisions of this paragraph shall not apply to any fund property for which provision is made under section 76.”

There should be an “or” between “fund” and “property” and the reference to section 76 should be to section 77 (which deals with trusts for the repair etc. of buildings closed for regular public worship). Again, it is convenient to take the opportunity afforded by clause 15 to remove the uncertainty; subsection (5) accordingly makes the correction.