

GENERAL SYNOD
DRAFT CHURCH PROPERTY MEASURE
DRAFT CHURCH OF ENGLAND PENSIONS MEASURE

REPORT OF THE STEERING COMMITTEE OF MEMBERS IN CHARGE

Chair: The Rt Worshipful Timothy Briden, Vicar General of Canterbury
(ex officio)

Members: Mrs April Alexander (Southwark)
The Reverend Paul Benfield (Blackburn)

1. The draft Church Property Measure and the Draft Church of England Pensions Measure received First Consideration from the General Synod at the February 2018 group of sessions. Having been designated Consolidation Measures by the Business Committee under SO 47(3), they were deemed to have been given First Consideration without debate pursuant to SO 52(1) and were accordingly not committed to a Revision Committee but stood committed to the Steering Committee in respect of their final drafting (see SO 52(8)).
2. The Steering Committee has conducted its business by correspondence under Standing Order 61(2) and (3). It now returns the draft Measures (GS 2083A and GS 2084A) for Final Drafting and Final Approval.
3. 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.
4. The Steering Committee has agreed the drafting amendments shown in bold type in GS 2083A and GS 2084A, which have been identified on final scrutiny of the draft Measures. An explanation for each of the amendments is given in the Annex to this report.
5. The Steering Committee does not propose any special amendments.

On behalf of the Committee
Timothy Briden
Chair

June 2018

ANNEX

EXPLANATION OF DRAFTING AMENDMENTS TO THE DRAFT MEASURE CHURCH PROPERTY MEASURE FINAL DRAFTING AMENDMENTS

Clause 49 (other interpretation etc.)

1. The new subsection (12) makes express provision to enable notices or notifications to be given by electronic means. Although nothing in the provisions being consolidated expressly prohibits that, there is nonetheless a lack of clarity as to the position and this amendment would remove any doubt by making express what is thought to be implied. The provision is included in the consolidation in reliance on SO 63(3)(b) (removal of doubt) and (3)(e) (improvement of manner in which law stated).

Schedule 1 (consequential amendments)

2. In paragraph 27, the new sub-paragraph (3) makes a consequential amendment to section 92(3) of the Mission and Pastoral Measure 2011 to replace the reference there to section 14 of the New Parishes Measure 1943 (which deals with powers to grant land) with a reference to clause 29 of the consolidation, which restates it.
3. In paragraph 35, the new sub-paragraph (3) amends the definition of “Parochial Church Council” in the Parsonages Measure Rules 2000 to provide a more precise cross-reference to the relevant provision of the consolidation.
4. The new paragraph 36 updates the cross-references in the new Form to be inserted into the Land Registration Rules 2003 by clause 2 of the current Miscellaneous Provisions Measure, so that the certificates to be given on certain disposals of Church land refer to the relevant provisions of the consolidation.

Schedule 3 (repeals)

5. The repeal of section 9 of the Church of England (Legal Aid and Miscellaneous Provisions) Measure 1988 has been added. It can be repealed because it inserted section 7(6) of the Church Property (Miscellaneous Provisions) Measure 1960, which has been restated as clause 45(8) of the consolidation.
6. The repeal of paragraph 34 of Schedule 7 to the Charities Act 2011 has been removed, as it amends section 11 of the Endowments and Glebe Measure 1976, which does not form part of the consolidation.

CHURCH OF ENGLAND PENSIONS MEASURE FINAL DRAFTING AMENDMENTS

Clause 10 (the responsible body)

1. On subsection (5), a reference to subsection (2)(e) of this clause has been added alongside the reference to subsection (2)(d) so as to restate in full the reference to section 4(4)(e) of the Pensions Measure 1997 in section 4(4)(f) of that Measure.

Clause 15 (entitlement to lump sum)

2. On subsection (2), the reference to 5 years has been replaced with a reference to 10 years to reflect the correction to be made by article 2(1) of the draft Pensions (Pre-consolidation amendments) Order to rule 6 of the Church of England Pensions (Lump Sum Payments) Rules 1988. The new subsection (6) restates the retrospective provision provided for by article 2(2) of the draft Order.

Provisions on return of payments for certain types of service

3. The provisions which were clauses 22 and 23 of the draft Measure on First Consideration (GS 2084) have been removed. They had restated regulation 12 of the Church of England Pensions Regulations 1988, which provides for the return of certain payments made under earlier legislation or under special arrangements. Since First Consideration, the Pensions Board have concluded that there is nobody left to whom regulation 12 could apply. All the clerks who might have made any of the payments have either died or begun to receive their pensions and there are no agreements for special arrangements to be made. Regulation 12 is therefore to be omitted from the consolidation in reliance on SO 63(3)(d) (removal of unnecessary provision).

Clause 40 (additional pension scheme for clerks)

4. What was subsection (2) of this clause on First Consideration has been removed, on the basis that there are no schemes under section 38A of the Clergy Pensions Measure 1961 which are currently in force.

Clause 54 (power to amend this Measure)

5. On subsection (5), new paragraphs (d) and (j) have been added so as to include clauses 42 and 52 in the list of provisions excepted from the power to amend the Measure. Clause 42 (which deals with the transfer of homes of residence to the General Purposes Fund) restates section 4(5) of the Clergy Pensions (Amendment) Measure 1967. Section 4 of that Measure is included in the list of excepted provisions in section 6(3) of the Clergy Pensions (Amendment) Measure 1972. Clause 52 (which deals with miscellaneous administrative payments made by the Church Commissioners) restates section 22(3) of the 1961 Measure. Section 22 of that Measure is included within the reference to Part 3 of that Measure in the list of excepted provisions in section 6(3) of the 1972 Measure.

Schedule 1 (the Church of England Pensions Board)

6. On paragraph 1(3), in the opening words, the reference to “a pension” has been expanded so as to provide greater precision.
7. On paragraph 2, a new sub-paragraph (6) has been added, with a consequential amendment to sub-paragraph (8), to reflect the amendments to be made by article 3 of the draft Pensions (Pre-consolidation) Order. It provides that a person who is subject to an order under section 3 or 4 of the Pensions Act 1995, prohibiting that person from acting as a charity trustee, is disqualified from membership of the Pensions Board.

Schedule 4 (transitional and savings provision)

8. On paragraph 4, a new sub-paragraph (2) has been added so as to avoid any doubt there might otherwise be by providing expressly that the rules and regulations made under the current provisions will not stay in force once the consolidation comes into effect. That is because all the rules and regulations in question have themselves been restated in the consolidation and it is therefore correct to revoke them without a specific saving.

Schedule 5 (repeals and revocations)

9. On the entry for the Trustee Act 2000, a reference to paragraph 56 of Schedule 2 to that Act has been added. That provision repealed section 14(b) of the Church of England (Pensions) Measure 1988 and is accordingly spent.

10. On the entry for the Civil Partnership (Judicial Pensions and Church Pensions, etc.) Order 2005 (S.I. 2005/3325), references to Articles 88 to 91 and paragraph 1 of Schedule 7 have been added. Articles 88 to 91 amend the Pensions Measure 1997 and the Church of England (Pensions) Measure 2003, each of which is being repealed and consolidated. Paragraph 1 of Schedule 7 amends regulation 19 of the Church of England Pensions Regulations 1988, which is also being revoked and consolidated.