

GENERAL SYNOD
AMENDING CANON NO. 40
Explanatory Memorandum

Amending Canon No. 40 provides a canonical framework for religious communities in the Church of England. It amends the canonical requirements relating to ordination of members of religious communities. It makes provision to enable a bishop to licence a member of a religious community to exercise ministry for the furtherance of the work and mission of the community.

Background

1. At the February 2018 group of sessions the General Synod resolved:
That this Synod, mindful of the Archbishop of Canterbury's priority for the renewal of the religious life:
 - (a) note the historic importance of religious communities in the life of the faithful in this country;*
 - (b) celebrate the many new expressions of the religious life through Recognised and Acknowledged Communities; and*
 - (c) call on the Business Committee to introduce a new Canon to the Synod by July 2018 to provide a framework for religious life in the Church of England.*
2. The background to the motion was set out in a paper from the Bishop of Manchester as Chair of the House of Bishops' Advisory Council for Relations Between Bishops and Religious Communities ([GS 2087](#)).
3. Draft Amending Canon No. 40 has been introduced by the Business Committee pursuant to paragraph (c) of the resolution passed in February.

Summary of the Amending Canon

4. The Amending Canon inserts a new Canon DA 1 into the body of the Canons of the Church of England. The new Canon provides for the House of Bishops to declare communities to be religious communities in the Church of England. A community will have to meet criteria set out in regulations made by the House of Bishops before the House can make a declaration in respect of the community. The House will be able to include provision about other matters relating to religious communities in the regulations. The House may also issue guidance for religious communities.
5. It is expected that provision made under the new Canon will reflect recently agreed voluntary provision that is set out in *A Handbook of the Religious Life* issued by the Advisory Council on the Relations between Bishops and Religious Communities. It is also expected that the functions conferred on the House of Bishops by the Canon will

be exercised by the Advisory Council which has recently be reconstituted as a committee of the House of Bishops.

6. The Amending Canon also amends Canon C 5 to widen the scope for the ordination of members of religious communities without the need for them to be provided with a parochial title. And it amends Canon C 8 and Canon C 12 in consequence of provision to be made by the Church of England (Miscellaneous Provisions) (No. 2) Measure which is currently before the Synod.

Detailed description of the provisions of the Amending Canon

Paragraph 1

7. Paragraph 1 of the Amending Canon inserts the new Canon DA 1 into the body of Canons of the Church of England.
8. Paragraph 1 of new Canon DA 1 describes in basic terms what a religious community in the Church of England is. It is a community of persons which has a particular vocation in the service of the Gospel, whose members seek to frame and fashion their lives in accordance with a rule or other pattern of life, and which is declared by the House of Bishops to be a religious community in the Church of England. (Further descriptive material about religious communities and the religious life could be set out in regulations or guidance made under the new Canon.)
9. The existence of a declaration by the House of Bishops will be determinative of whether a community is a religious community in the Church of England. Other references in the Canons to religious communities are to be read accordingly.
10. Paragraph 2 of new Canon DA 1 makes it possible for a religious community to include people who are not members of the Church of England.
11. Paragraph 3 of new Canon DA 1 contains provisions for regulating the making of declarations by the House of Bishops under paragraph 1 of Canon DA 1. The House of Bishops will not be able to make a declaration in respect of a community unless it is satisfied that the community meets the conditions that are specified in regulations that are to be made by the House.
12. Paragraph 3(2) lists various matters to which the conditions specified in the regulations may relate. These include governance, financial affairs, safeguarding, the making of vows or promises and the minimum number of members a community needs to have to be eligible for a declaration that it is a religious community of the Church of England.
13. Regulations may also specify conditions about the procedure a community must follow in order to amend its constitution.
14. Paragraph 4 of new Canon DA 1 provides that the House of Bishops may revoke a declaration. The effect of revocation would be that the community ceased to be a religious community in the Church of England. A declaration may be revoked only “for some grave cause”. A declaration could not therefore be revoked for a reason that was only minor or trivial.
15. Paragraph 5 of new Canon DA 1 requires the House of Bishops to compile, maintain and publish a list of religious communities in the Church of England. That will enable

anyone who wishes to do so to ascertain easily whether a particular community is a religious community in the Church of England.

16. Paragraph 6 of new Canon DA 1 enables the House of Bishops to make regulations containing provision about religious communities beyond the provision that is made under paragraph 3(2). This could, for example, include provision requiring religious communities to provide the House of Bishops with information about their numbers or their activities.
17. Paragraph 7 of new Canon DA 1 makes supplementary provision about regulations made under Canon DA 1. Regulations may be amended or revoked by subsequent regulations. Regulations may confer a discretion; for example, as to whether or not to make a declaration or to approve amendments to a community's constitution. Any regulations made under the Canon must be laid before the General Synod for approval but can, if the Synod's Business Committee so decides, be dealt with under the procedure for deemed approval.
18. Paragraph 8 of new Canon DA 1 provides for the House of Bishops to issue guidance on religious communities. If the House issues such guidance, every member of a religious community and anyone else who exercises functions in relation to a religious community (for example, the Visitor) is required to have regard to that guidance. Any guidance issued by the House can be amended or revoked by it. The ability to issue guidance will mean that the House of Bishops can seek to ensure consistent good practice in the life of the religious communities without the need to set out all of the requirements for that in legally-binding regulations.

Paragraph 2

19. Paragraph 2 of Amending Canon No. 40 makes amendments to Canon C 5. Canon C 5 is concerned with the 'titles' of those who are to be ordained deacons or priests. The normal rule is that a bishop must not ordain a person as deacon or priest unless that person is provided with a curacy. There is currently an exception which permits a bishop to admit into holy orders "any person who is living under vows in the house of any religious order or community". But as explained in GS 2087, this provision does not satisfactorily provide for the ordination of those who are members of Acknowledged Communities whose members do not live under vows in a house of the community.
20. Paragraph 2 of the Amending Canon accordingly replaces the existing exception with a wider one which permits a bishop to admit into holy orders any person who is a member of a religious community. (Clause 1(1) of the Church of England (Miscellaneous Provisions) (No. 2) Measure will confer the statutory authority required for this canonical provision.) By virtue of paragraph 1(2) of new Canon DA 1, the reference here to a religious community will mean a religious community in the Church of England as provided for in the new Canon DA 1.
21. Any member of a religious community who is a candidate for ordination will still have to meet the general requirements for ordination in Canon C 4 (of the quality of such as are to be ordained deacons or priests).

Paragraph 3

22. Paragraph 3 of the Amending Canon amends Canon C 8 (ministers exercising their ministry) to take account of the provision that is to be made by clause 1(2) of the Church of England (Miscellaneous Provisions) (No. 2) Measure enabling a bishop to licence a member of a religious community to exercise ministry for the furtherance of the work and mission of the community.

Paragraph 4

23. Paragraph 4 of the Amending Canon amends Canon C 12, also to take account of the provision to be made by clause 1(2) of the Church of England (Miscellaneous Provisions) (No. 2) Measure.

The Legal Office
Church House
Westminster

June 2018