

A SUMMARY OF THE SUBSTANTIVE AMENDMENTS MADE BY THE REVISION COMMITTEE

References to relevant paragraph numbers (or the first in a series) given in square brackets

Part II – Provincial and Diocesan Structure

- Clause 3(3): Any proposals published by Dioceses Commission to alter the number of provinces should also make recommendations as to how the change is to be achieved [17].
- Clause 4(3)(d): a single reorganisation scheme may make provision for the transfer of part of a diocese to a diocese in another province [20].
- Clause 6(3): the same consultation process with interested parties is to apply where Dioceses Commission is acting proactively in preparing a draft scheme as where it prepares a draft scheme after having first receiving proposals from a diocesan bishop [25].
- Clause 6(4): representatives of the diocesan synod of any diocese affected by a draft reorganisation scheme are to have the right to make oral representations to Dioceses Commission, irrespective of whether or not it has made written representations [26].
- Clause 7(2): if the diocesan synod does not consent to a scheme, the archbishop of the province is to “be satisfied” that the requirements of clause 7(2)(a) or (b) are met before authorising Dioceses Commission to lay the scheme before General Synod for approval [34].
- Clause 13(12) and 14(9): Dioceses Commission to be notified of any instrument of delegation under clause 13 or 14 [52] and [55].
- Clause 13(16): power to delegate by instrument to duly commissioned assistant bishop as an alternative to delegation to suffragan bishop [53].
- Clause 17(1): if diocesan bishop considers that the filling of a suffragan see is urgent and that it is not practicable to consult the diocesan synod, he may consult the bishop’s council and standing committee instead [62].
- Clause 19: involvement of the Church Commissioners in schemes on ‘shared administration’ removed and a copy of the final scheme (subsection (9)) to be sent to Dioceses Commission instead [73].
- Clause 19(1) and 20(3): new provision for ‘shared administration’ schemes extended to all diocesan bodies (other than diocesan synod and bishop’s council and standing committee) including unincorporated bodies and bodies established by or under Measure [76].

Part III onwards

- Renamed schemes: “pastoral church schemes” renamed “pastoral church buildings schemes” and “pastoral (church disposal) schemes” renamed “pastoral (church buildings disposal) schemes” [90] and [138].

Part III – Procedure for making Pastoral Schemes and Orders etc.

- Clauses 28(d) and 38(b): delete “to their representative” in section 6(5) of Pastoral Measure, dealing with pastoral schemes and pastoral church buildings schemes, in line with Commissioners’ practice for oral representations to be made to full Pastoral Committee [148].
- Clause 29(b): Church Commissioners are to determine what is a “minor drafting” amendment to a draft schemes or order such that re-advertising etc. is not required [102].
- Clause 32: a negative (‘deemed’) consent procedure introduced for ‘shortened procedure orders’ [109].
- Clause 36(a): parish council (or if none, chairman of parish meeting) of civil parish in which any church proposed to be closed for regular public worship is situated is to be an interested party to be consulted before diocesan pastoral committee makes recommendations to bishop on proposals for pastoral church buildings scheme [119].

Part IV – Church buildings closed for regular public worship

- Clause 45 - in making pastoral (church buildings disposal) schemes: (c) to (f): civil parish council or parish meeting to be consulted; bishop to be consulted at a slightly later stage; Church Commissioners to have discretion over precisely when consultation takes place with ‘advisory body’ over any proposed architectural or structural changes to facilitate alternative use; (g) Commissioners to provide opportunity to make oral representations to them; Commissioners to have power to extend representation period [141].

Part V - Mission

- ‘Co-operation provision’ including co-operation with ecumenical partners:
- Clause 47: subsection (5) - mission order may include a “co-operation provision” for the participation of the mission initiative in an LEP, for other ecumenical co-operation with other Churches and/ or for collaboration with any religious organisation; subsection (8) – where co-operation provision proposed, duty on the bishop to consult with the appropriate authorities of other Churches etc [157].
- Clause 49(3): where a co-operation provision in place, the bishop(s) and Visitor are to discharge all their functions in this Part after consultation with the appropriate authorities of each Church or religious organisation involved [158].
- Clause 50(8): in case of a co-operation provision involving an LEP only, power to provide for Visitor’s report to be made to, and functions of bishop to be performed by, a body of persons including bishop and representatives of the other Churches; if so, any of existing functions of the Visitor to be performed on behalf of bishop(s) to be performed, instead, on behalf of that body. Subsection (3) – bishop given power to direct that Visitor’s report sent to other persons or bodies [159].
- Patrons/other consultation: taking clause 47(6)(b) and 47(7) together, PCC(s) and registered patron(s) deemed to have an “interest” in a proposed mission order. Before making order bishop to consult those who appear to him to have a “significant” interest or be likely to be “significantly” affected – in deciding this to take account of objectives of initiative and any other relevant circumstances [174].

Part VII – Other Provisions

- Clause 54(1): new statutory body known as Church Buildings Council to be established and existing Council for the Care of Churches to cease to exist when this new body comes into existence [262].
- (Deleted clause 58) - deletion of amendment to procedure for appointing CCT trustees that would have required the Archbishops, before submitting their advice on the appointment of trustees, to consult Commissioners and the Secretary of State [280].
- Clause 59(9): ‘interim provisions’ in a pastoral scheme (or instrument) dealing with representatives of laity on PCCs of newly created parishes will expire automatically after five years, or any lesser specified period [294].
- Clause 60(a) and (b): DBF to nominate a person to represent its interests on pastoral committee at any meeting dealing with ‘compensation of clergy’; person may, but need not, be a member of pastoral committee; if not, to be entitled to be present throughout and speak but not vote [297].
- Clause 61(5): further provision to ensure that assignment of special cure or responsibility to assistant curate in team ministry would be without prejudice to any duties or responsibilities of any member of team chapter or other member of team [300].

Part VIII - Miscellaneous

- Clause 63(2) and (3): consequential amendments to two Measures, relating to amendments on re- suspension of presentation (Schedule 5) [302].

Schedule 4 – The Church Buildings Council

- Membership of new Church Buildings Council: paragraphs 2(a) - ‘independent strand’ (four members) to be nominated by Secretary of State; paragraph 2(f) - a person to be appointed with “expertise in the innovative use of churches and former churches, including their management and development”; paragraph (3) - maximum of co-opted members reduced to two and paragraph (10) - nomination included in provision on casual vacancies [348] and [352].
- Paragraphs 14 to 21: permanent statutory sub-committee of Church Buildings Council - the ‘Statutory Advisory Committee’ - to perform the advisory functions previously exercised by Advisory Board –to consist of ‘independent strand’ (four members), three other Council members appointed by Council, and Chair of Council (to chair the SAC but not have a vote) – ‘independent strand’ in a voting majority. Council to have power to delegate other functions to SAC, or seek advice of SAC on other matters. SAC report to Council on discharge of functions from time to time, and at least every six months or when required by Council. SAC to have a quorum of four, at least two from ‘independent strand’; any person chosen to preside, in absence of Chair not to have a second or casting vote; otherwise provisions on the SAC’s procedures same as those governing full Council [348].

Schedule 5 – Amendment of Pastoral Measure 1983

- Paragraphs 3, 4 and 5: allow for pastoral scheme to provide for selection of an incumbent, as an alternative to designating incumbent, when establishing team or group ministry, also to provide for selection or designation of incumbent of existing vacant benefice when additional parish(es) transferred to it [367].
- Paragraph 6: in regard to ‘vestable quality churches’ only: new power for Commissioners, after consulting the Council for Care of Churches regarding vesture quality, and with consent of diocesan pastoral committee, to request CCT to give advice to them and, if specified, advice or assistance to specified person or body, in identifying and developing proposals for use of that church, or any part, consistent with primary use of church as place of worship with object of ensuring continuance of that use; CCT given power to give this advice and assistance [370].
- Paragraphs 7, 8 and 10: simplifying the existing processes for the Commissioners’ partial funding of CCT, including provisions for making triennial funding orders [384].
- Paragraphs 12 to 14 and 19 – amendment to Pastoral Measure to allow for a suspension of presentation to be exercised more than once during the same vacancy and for filling of benefice under Patronage (Benefices) Measure to be thereby halted and for these procedures to be started again from beginning when second suspension period ends [302].
- Paragraph 12(b) and (c): new provision to ensure that notice given in advance that suspension period is due to expire so that it can be extended before it expires, if so desired [308].
- Paragraph 15: to provide for surplus moneys in diocesan pastoral account to be transferred to one or more other accounts held by DBF or applied or transferred partly to these other accounts and partly under existing provisions [390].

Vacancy in See Regulation

- Paragraph 4, new paragraph 5A(c): in any of circumstances specified in 5A(c), the archbishop would be required to revoke direction [410].

GENERAL SYNOD

**DRAFT DIOCESES, PASTORAL AND MISSION MEASURE
DRAFT AMENDING CANON NO. 27
DRAFT VACANCY IN SEE COMMITTEES (AMENDMENT) REGULATION**

REVISION COMMITTEE REPORT

Chair:	Dr Edmund Marshall (Wakefield)
Ex officio members: (Steering Committee)	The Right Reverend Michael Langrish (the Bishop of Exeter) (Chair) The Reverend Stephen Trott (Peterborough) Mrs Janet Atkinson (Durham) The Reverend Simon Bessant (Blackburn) The Worshipful Timothy Briden (the Vicar-General of Canterbury) (Ex-officio) Canon Professor Michael Clarke (Worcester) The Venerable Christine Hardman (the Archdeacon of Lewisham) (Southwark)
Appointed members¹:	Mr Timothy Allen (St Edmundsbury and Ipswich) The Venerable Annette Cooper (the Archdeacon of Colchester) (Chelmsford) The Very Reverend Vivienne Faull (the Dean of Leicester) (Southern Deans) The Right Reverend Dr David James (the Bishop of Bradford) Canon Linda Jones (Liverpool) Mr Steve Mitchell (Derby)
Consultants:	
Diocesan Secretaries:	Mr Nigel Spraggins (Diocesan Secretary of Manchester)
Diocesan Registrars:	The Reverend Canon John Rees (Diocesan Registrar of Oxford)
Church Commissioners:	Miss Sue Jones (Official Solicitor) Mr Paul Lewis (Pastoral and Redundant Churches Secretary)

¹ One of the appointed members had to withdraw his acceptance of the invitation to be a member of this Committee shortly before its first meeting. Unfortunately, in the time available, a replacement member could not be found. Although it is customary for the appointed members to form a majority of the membership of a Committee, the composition of this Committee (with an equal number of ex-officio and appointed members) was within the requirement of Standing Order 52(a)(i) that “the members of the Steering Committee shall not form a majority of the membership”.

Council for Christian Unity: The Reverend John Cole (National Adviser (Unity-in-Mission))

Council for the Care of Churches: Ms Paula Griffiths (Secretary)

Dioceses Commission: Dr Colin Podmore (Secretary)

Observer:

Ecumenical Representatives: Mr Dudley Coates (Methodist Ecumenical Representative to the General Synod)

1. The Draft Dioceses, Pastoral and Mission Measure (“the draft Measure”), Draft Amending Canon No. 27 (“the draft Canon”), and the Draft Vacancy in See Committees (Amendment) Regulation (“the draft Regulation”) (collectively “the draft legislation”) all received First Consideration from the General Synod (“the Synod”) at the November 2005 Group of Sessions. The Business Committee determined in accordance with Standing Order 68(a) that the draft Regulation should be considered in accordance with the provisions of the Standing Orders relating to Measures. The period for the submission of proposals for amendment under Standing Order 53(a) expired on 20th December 2005.
2. In addition to proposals from the Steering Committee and from individual members of the Revision Committee (“the Committee”), proposals for amendment submitted in accordance with Standing Order 53(a) were received from the members of Synod listed in Part 1 of Appendix I. Submissions were also received from those non-Synod members or bodies listed in Part 2 of Appendix I², which also lists a submission made out of time under Standing Order 53(a) by a Synod member; all of these were considered by the Committee. All those who attended and addressed the Committee are indicated in Appendix I.
3. The Committee met on nine occasions between January and April 2006 for eight full-day meetings and one half day meeting. Although this involved an intensive period of work, many of the Committee found that approach helpful, and it was not in any way at the expense of a full and careful consideration of the draft legislation and the points raised in the submissions to the Committee. The decisions made by the Committee were agreed *nem con*, except where indicated otherwise.
4. The amendments agreed by the Committee to give effect to the proposals that it accepted are shown in the versions of the draft Measure, draft Canon and draft Regulation (GS 1597A -99A) now before the Synod. As required by Standing Order 54(b), Appendix II contains a summary of the proposals received which raise points of substance and of the Committee’s consideration of them. Appendix III contains a destination table relating the provisions of the draft legislation at First Consideration

² Appendix I does not include submissions received after 10th January 2006 or further written submissions enlarging on those already made by the same person or body, although the Committee also saw all these submissions.

to those in the draft legislation as now returned to the Synod. For the convenience of Synod members, the text of the Pastoral Measure 1983 (“the 1983 Measure”) (as already amended) showing the amendments which would be made by the draft Measure, was circulated as GS 1597W as one of the papers for first consideration stage; an update, incorporating the changes made the Committee, is now being circulated with the revised draft legislation and this report as paper GS 1597WA.

5. A preliminary and provisional outline of the Code of Practice on Part V (mission initiatives) is also being circulated to Synod members, for information, as GS 1597V, in order to provide a general indication of what the Committee and the Steering Committee had in mind for inclusion in that Code. Further information about the process by which this outline was produced appears in Appendix IV (see also item 213 below). (The final Code will be the responsibility of the House of Bishops and will be subject to approval by the Synod. It cannot be finalised unless and until the draft Measure becomes law, but further work will be done on it before the Measure comes to the Synod for final drafting and a final approval.)

General issue

6. The Archdeacon of Tonbridge (the Venerable Clive Mansell) drew attention to the significant and wide-ranging provisions of the draft legislation, and the importance of it receiving very thorough consideration from the Committee. He therefore asked that proper time be given to this and that the process should not be unduly rushed. The Committee fully concurred with this view and acted accordingly. In particular, the Committee agreed that it was important to hear directly and fully from a number of non-Synod bodies and interests affected by provisions in the draft legislation, which it did. Further details appear in the sections of this report dealing with the relevant provisions.

DRAFT DIOCESES, PASTORAL AND MISSION MEASURE

Part I - General Principle

Clause 1 – General Duty

7. Mr Clive Scowen spoke to his proposals to amend clause 1 so as to ensure it made promoting the mission of the Church the paramount and overriding priority governing the exercise of functions under the Measure. In his view this was necessary if the culture of the Church was to be changed from that of a ‘settled institution’ to that of a mission-shaped Church. He proposed alternative wordings to clause 1 to achieve this, involving the use of the expressions “paramount consideration”, “first consideration”, “first and paramount consideration”, “special attention” and “overriding objective”, and provided examples of their use in secular legislation.
8. The Committee also considered a proposal from the Archdeacon of Hereford (the Venerable Malcolm Colmer), which had the same general objective of emphasising the priority of mission and proposed the use of the term “overriding priority”. The

Committee also noted the comments relating to the meaning of mission from Mr Frank Knaggs, who spoke to his submission.

9. The Steering Committee drew the Committee's attention to the need to read clause 1, which required "any person or body carrying out functions under this Measure or the Pastoral Measure 1983 to have due regard to the mission of the Church of England", in conjunction with the meaning given to "mission" in clause 62(1), under which, unless the context required otherwise, the term "mission" in the draft Measure meant "the whole mission of the Church of England, pastoral, evangelistic, social and ecumenical". The Steering Committee pointed out that the expression "have due regard to" was one that had been used in imposing general duties in a number of recent Measures, and that provisions requiring a person or body to have "regard to" or "due regard to" a particular factor or factors were also common in secular legislation. The Steering Committee had explored some other possible forms of words (including some of those proposed by Mr Scowen) and the case-law on their legal effect and had analysed some particular issues which arose in relation to the draft Measure. These included the very broad and wide-ranging nature of the functions to which clause 1 would apply and the complex nature of the factor – namely "mission" as defined in clause 62 – to which clause 1 required persons and bodies to have regard. The Steering Committee pointed out that in considering how to exercise functions within clause 1, those persons and bodies might also need to bring into play a variety of other factors, such as financial considerations, and that some provisions in the draft Measure laid down certain specific factors which had to be taken into account under the draft Measure in specific contexts.
10. The Steering Committee had concluded that if clause 1 were amended so that it laid down a "paramount" consideration or an "overriding" factor that would give rise to obvious difficulties. In some contexts it could well lead to a tension or worse between clause 1 and other clauses of the Measure or other factors, such as finance, that must in practice be taken into account. There could also be tensions between the demands of different aspects of the "paramount" factor, as defined in the Measure. This would make it at best very difficult to predict the legal or practical effect of clause 1 in many contexts, and would present a person or body seeking to comply with the clause with major difficulties. Comparable problems would arise from the use of expressions such as "particular regard" or "first consideration", or the other expressions proposed by Mr Scowen; even in secular legislation, where they were in general used in a much more specific and limited contexts, their legal effect had not been and probably could not be precisely defined in the abstract.
11. In discussion, the Committee expressed sympathy with the objectives of those proposing amendments to this clause. However, the Committee was not persuaded that the clause as it stood should be amended. Rather, it accepted that in such a wide ranging Measure as this (as contrasted to a Measure that was dealing exclusively with mission) it would be inappropriate to include a provision making mission the "paramount consideration", or to use any of other expressions proposed by Mr Scowen or the Archdeacon of Hereford, for the reasons set out by the Steering Committee. The Committee accepted that the current clause went as far it responsibly could, as a matter of law, to ensure that any person or body exercising functions

under the draft Measure or the 1983 Measure gave proper weight to the mission of the Church.

12. The Committee therefore did not accept the proposals. The Committee agreed that clause 1 should stand part of the Measure.

Part II – Provincial and Diocesan Structure

Clause 2 – Dioceses Commission

13. Mr Frank Knaggs spoke to his submission. He explained that, as he saw it, the proactive role of the new Dioceses Commission indicated that the whole Measure could be designed to facilitate change, and he was concerned that this should not develop into a process of ‘managed decline’. The Committee concurred.
14. There were no other proposals or submission, and the Committee agreed that clause 2 should stand part of the Measure.
15. Clause 2 introduces Schedule 1 to the draft Measure, containing detailed provisions regarding the Dioceses Commission. The Committee considered this Schedule in conjunction with Part II; for details see items 325 to 334 below.

Clause 3 – Review of provincial and diocesan structure

16. Proposals were received from the Reverend Paul Benfield, Mr Frank Knaggs and Mr Clive Scowen in relation to clause 3 (and clause 4). These proposals pointed out that the new Dioceses Commission would have power to review the number of provinces but that the draft Measure gave no power to vary that number by a reorganisation scheme. Mr Benfield suggested that the draft Measure should contain such a power. Mr Knaggs and Mr Scowen spoke to their proposals, drawing attention to this point, with Mr Scowen also pointing out that, under the draft Measure as it stood, primary legislation would be needed in order to implement a recommendation for a change in the number of provinces.
17. The Steering Committee confirmed that in its view it should be open to the Dioceses Commission to make recommendations for changes in the number of provinces, and clause 3(1)(a) allowed for this. However, the Steering Committee was satisfied that, given the complex and far-reaching nature of what would be involved in creating a new province, the only acceptable means of doing so must involve a Measure, and that it could not be left to a reorganisation scheme. To avoid any uncertainty, the Steering Committee proposed the insertion of a new subsection (3) to provide that, in the event of the Dioceses Commission publishing proposals to alter the number of provinces, it should also make recommendations as to how the change was to be achieved.
18. The Committee agreed that this amendment should be made and did not accept the proposals for allowing a change in the number of provinces by a reorganisation scheme. The Committee agreed that clause 3 (as amended) should stand part of the Measure.

Clause 4 – Preparation and making of reorganisation schemes

19. The Committee noted that subsection (3)(a) would allow for the foundation of a new diocese or dioceses from one or more existing dioceses and, if necessary, for the dissolution of one or more of the existing dioceses. It also noted that the term “dissolution” was a well-established legal term, and that as a matter of law the “dissolution” of a diocese would mean that it would cease to exist³. However, the Committee thought that it was not immediately clear to those who were unfamiliar with the legal rules on the interpretation of Acts and Measures that this subsection allowed for the creation or dissolution of more than one diocese. The Steering Committee proposed amendments to subsection (3)(a) (and a consequential amendment to subsection (3)(c)) to make this clear, and the Committee agreed to all of these amendments being made.
20. Mr Clive Scowen spoke to his proposal, which pointed out that although the draft Measure made provision for transferring a complete diocese from one province to another, there appeared to be no express power in this clause (or elsewhere in the draft Measure) for a single reorganisation scheme to transfer part of a diocese to a diocese in another province. The Steering Committee agreed that this should be possible and that the Follow-Up Group had always envisaged that it would be. The Steering Committee therefore proposed an amendment to subsection (3)(d) to provide for this, and the Committee agreed to this amendment being made.
21. The Committee agreed that clause 4 (as amended) should stand part of the Measure.
22. Clause 4 introduces Schedule 2 to the draft Measure, dealing in detail with the provisions which may or must be included in a reorganisation scheme. The Committee considered this Schedule in conjunction with Part II; for details see items 335 to 343 below.

Clause 5 – Application for reorganisation scheme

23. No proposals or submissions were received and no amendments were proposed.
24. The Committee agreed that clause 5 should stand part of the Measure.

Clause 6 – Preparation of draft scheme by Commission

25. The Steering Committee proposed an amendment to subsection (3) the effect of which would be that, essentially, the same consultation process with interested parties would apply in cases where the Dioceses Commission acted proactively to prepare a draft scheme (without having first received proposals submitted to it by a bishop) as where it prepared a draft scheme after having first received such proposals from a bishop. This is what the Follow-Up Group had envisaged would be the case and the Steering Committee saw the merit of having equivalent consultation with the

³ Although, in the case of a merger of two or more dioceses, one or both would technically be “dissolved”, the original dioceses could be said to ‘continue’ in a non-legal sense in the new merged diocese.

interested parties under both procedures. The Committee agreed that, for the reasons given by the Steering Committee, this amendment should be made.

26. The Bishop of Lincoln (the Right Reverend John Saxbee) proposed an amendment to give a diocese that was affected by a reorganisation scheme the right to make personal representations to the Dioceses Commission when that proposal was being discussed (in addition to the current right to make written representations under clause 6(4)). The Steering Committee agreed with the principle of this proposal and proposed an amendment to subsection (4) to allow for representatives of the diocesan synod of any affected diocese to make oral representations to the Commission, irrespective of whether or not it had made written representations. The Committee accepted the desirability of giving such a right and agreed to this amendment being made.
27. The Committee agreed that clause 6 (as amended) should stand part of the Measure.

Clause 7 – Making of reorganisation scheme

28. Mr Clive Scowen spoke to his proposal to delete clause 7(2). This provision in effect allowed the Archbishop to override a refusal by the diocesan synod to give its consent to a reorganisation scheme, by giving him a discretionary power, in certain circumstances, to authorise the submission of the scheme to the Synod for approval in the absence of that consent. The power existed if it appeared to the Archbishop either that the interest of the diocese in the scheme was so small that the withholding of the diocesan synod's consent should not prevent submission of the scheme to the Synod, or that there were wider considerations affecting the province or the Church of England a whole which required it. It was Mr Scowen's view that in Anglican ecclesiology the diocese was the fundamental unit of the Church, and it was therefore contrary to Anglican ecclesiology to make provision for a diocese to be dissolved or dismembered without its consent. He further commented that if this possibility were removed from the draft Measure, that would not amount to a return to the status quo, since the new Dioceses Commission would still be able to operate proactively in bringing forward proposals and thus create a momentum for change. That would represent a significant advance on the present position. At the very least he argued for a special procedure for approval by the Synod, requiring a two-thirds majority in each House. The Bishop of Exeter expressed agreement with Mr Scowen's ecclesiological point so far as dissolution of dioceses was concerned. However, he saw a distinction between dissolution and 'dismemberment' in that the former touched the very existence of the diocese whereas the latter did not.
29. The Committee also considered a proposal from the Bishop of Truro (the Right Reverend William Ind) that where a scheme directly affected a diocese it should go forward to the Synod only where the diocesan synod had had an opportunity to discuss it fully and gave its consent. At the same time the Committee also considered proposals by the Archdeacon of Tonbridge which were in general terms but which the Committee saw as having obvious application to clause 7. They were to the effect that, where possible, some "hurdles" should be put in place before local consent was overridden. These might take the form of a decision not to override local consent if

there was a certain size of vote against the proposal at diocesan synod level, or a requirement for particular special majorities in the Synod.

30. Mr Frank Knaggs also spoke to a number of specific proposals regarding clause 7. The first group would require a record to be kept of the voting figures in the diocesan synod on matters within clause 7(2) and made available to the Synod. The second group of proposals was that when a scheme which the diocesan synod had rejected was to be referred to the General Synod, members of General Synod should at least receive a paper giving the reasons for the diocesan synod's decision, and that they should receive the draft scheme and supporting material at least 28 days, but preferably two months, in advance of that scheme being considered by the Synod, so as to give sufficient time for discussion with those in the diocese if appropriate. On the first of these, the Steering Committee recognised that there was a case for requiring a vote by Houses in the diocesan synod in such cases. However, in view of the current provisions of the Church Representation Rules and the Model Rules for diocesan synods as regards voting by Houses in other cases, they saw technical difficulties in making that mandatory by means of an amendment to the Church Representation Rules. There was also a case for ensuring that if a diocesan synod rejected a proposal, then the papers before the Synod should include the voting figures in the diocesan synod and a statement, perhaps prepared by the bishop's council and standing committee after the debate, about the views expressed in that debate. However, the Steering Committee took the view that all these matters were best dealt with in guidance on good practice and not in legislation. The Steering Committee did not see any reason to lengthen the period of notice required by clause 7(3) as proposed by Mr Knaggs so as to make it longer than for normal Synod business. The Committee concurred with the Steering Committee on all these points and did not accept the proposed amendments to the draft Measure.
31. As regards the proposals by the Archdeacon of Tonbridge and Mr Scowen that special majorities should be required in the Synod in cases where clause 7(2) was used, the Steering Committee did not see a case for bringing a decision of this kind within the current provisions of Standing Order 35(d), requiring two-third majorities in all three Houses of the Synod, or requiring any other special majority. The Committee concurred, and did not adopt these proposals.
32. The Committee also heard oral submissions from the Reverend Andy Phillips and Professor Ken MacKinnon who attended the Committee as representatives of *Fry an Spyrys*, a group campaigning for Cornwall to become a separate, disestablished, province within the Anglican Communion and an autonomous Methodist District, and for greater control by Cornish Christians over their own affairs and destiny. The group saw the creation of a more pro-active Dioceses Commission as motivated by an aim to reduce the number of dioceses in the Church of England, which would, in turn, create a more regionally and nationally centralized and inflexible Church structure. In the group's view this would be bad for many dioceses, and not only for Truro, but especially so for the Church in Cornwall because of its particular early history as a self-governing and autonomous Church. The group felt that in many ways, the diocese of Truro had now become the most visible manifestation of the continuous identity and unique status of Cornwall as a nation – something not true of any other part of England. The group's concern was that the draft Measure would

allow for the diocese of Truro to be dissolved against the will of its diocesan synod; the group found the arguments they had heard from different sources about the unlikelihood of this happening in practice unconvincing.

33. The group's submissions focused in particular on clause 7(2) of the draft Measure. (The group's further submissions are referred to in items 325-27 and 410-11 below.) The group asked the Committee either to delete clause 7(2) altogether or to exclude Cornwall from it.
34. When questioned on whether *Fry an Spyrys* were seeking to maintain the diocesan 'veto' where 'minor' reorganisation schemes, say affecting a small number of parishes along a diocesan boundary, were contemplated, or whether they accepted the principle of clause 7(2)(a), the representatives of *Fry an Spyrys* confirmed that they were not opposed to clause 7(2)(a) in principle. However, they said they would want to see further clarification or a tightening up of the phrase "it appears to the archbishop". In response to this latter point, and in order to make clear what had always been intended, the Steering Committee proposed that all the words from the word "it" to the word "situated" in clause 7(2) should be deleted and replaced by the words "the archbishop of the province in which the diocese is situated is satisfied". The Committee agreed to this amendment being made. However, *Fry an Spyrys* confirmed its continued opposition to clause 7(2)(b).
35. The Steering Committee was clear that the 'absolute veto' that any diocese had under the existing law (in the Dioceses Measure 1978 – "the 1978 Measure") over any change affecting it, for example a mere alteration in its boundaries, had to be removed, in order to free up the potential for delivering change. It therefore did not support the proposals from the Bishop of Truro and Mr Scowen that effectively this absolute veto should remain. The Steering Committee was unanimous that the current proposal embodied in the draft Measure to remove that veto should apply to all reorganisation schemes that did not involve the dissolution of a diocese, and the Committee noted that the submission from *Fry an Spyrys* also appeared to accept that. This left the question of whether the diocese should retain a veto when a proposal for its abolition was being considered, and that question raised genuine ecclesiological issues. However, it also had to be borne in mind that relatively few submissions had been made on this point and it had not featured prominently in the debates on *A Measure for Measures* or at first consideration of the draft legislation. On this question, the members of the Steering Committee were not of one mind.
36. To the majority of the Steering Committee, if it was inconceivable that the Synod would agree (by simple or special majority) to the abolition of a diocese without the consent of the synod of that diocese, then it might be better to remove this possibility from the draft Measure. To that end, the Bishop of Exeter proposed an amendment to clause 7(2) that would exclude from that clause a case where a draft scheme proposed the dissolution of a diocese that did not give its consent under clause 6(6). This amendment concerned only the narrow point of a scheme involving the dissolution of a diocese where the diocesan synod of the diocese concerned did not consent to the scheme. It did not affect the position with regard to the generality of schemes. What this would mean was that if a proposal was put forward to abolish a

diocese and the diocesan synod did not consent, the full Measure procedure would be required to implement the proposal.

37. For the minority on the Steering Committee, the arguments for keeping the current provision in the draft Measure unamended were that it would more firmly establish the principle of the national Church having a locus in relation to the regional diocesan structures, that it would ensure a diocesan synod gave full consideration to the interests of the Church as a whole in responding to proposals for major diocesan reorganisation, and that in practice it was difficult to draw a clear line between complete abolition and proposals that would have a very major impact on the diocese and its future viability. There could be circumstances (where there were strong regional or national arguments in favour) where the Synod would vote to abolish a diocese without its consent, and the existing provision in the draft Measure (representing the original recommendation 7 of *A Measure for Measures*) would ensure a route whereby the view of the national Church would not be frustrated. (The machinery of a Measure had not been used to abolish a diocese in the past and there was nothing to suggest that it would be used in practice in the future, if this amendment were made.)
38. In the light of these arguments the Committee rejected the amendment to clause 7(2) that would exclude from that provision a case where a draft scheme proposed the dissolution of a diocese and the diocesan synod of that diocese did not give its consent under clause 6(6). The voting was five in favour of the amendment, with six against.
39. The Committee agreed that clause 7 (as amended) should stand part of the Measure.

Clause 8 – Confirmation of scheme by Order in Council and publication of scheme

40. No proposals or submissions were received and no amendments were proposed.
41. The Committee agreed that clause 8 should stand part of the Measure.

Clause 9 – Supplementary provisions with respect to reorganisation schemes

42. No proposals or submissions were received and no amendments were proposed.
43. The Committee agreed that clause 9 should stand part of the Measure.

Clause 10 – Power of General Synod to make temporary provision with respect to membership of Convocations etc.

44. Mr Clive Scowen spoke to his proposal for mandatory consultation with all elected members of the Synod affected by a reorganisation of dioceses (as a right enshrined in the draft Measure), prior to a temporary reallocation of members by resolution of the Synod pending the next general election to the Synod. He also sought clarification of who or what body would bring such a resolution for a reallocation to the Synod. The Steering Committee took the view that consultation of existing members in relation to reallocation under this clause should be a matter for guidance

on good practice rather than specific provisions in the draft Measure. The same applied to identifying who should arrange for the preparation of the draft resolution; although it seemed to the Steering Committee that in practice this was likely to be a matter for the Business Committee, acting under the Standing Orders, this again should not be enshrined in legislation as it was desirable to allow for some flexibility. The Committee concurred with the Steering Committee on both these points and therefore did not accept Mr Scowen's proposals.

45. The Committee agreed that clause 10 should stand part of the Measure.

Clause 11 – Change of name of see

46. No proposals or submissions were received and no amendments were proposed.
47. The Committee agreed that clause 11 should stand part of the Measure.

Clause 12 – Duty of the bishop to keep episcopal ministry under review

48. No proposals or submissions were received and no amendments were proposed.
49. The Committee noted that the duty imposed on the diocesan bishop by this clause was in very general terms. The Committee envisaged that the new Dioceses Commission would need to provide some elaboration in guidance as to how this clause should be implemented in practice and in particular how the bishop would take the conclusions he came to in fulfilling this general duty into account when considering the filling of a vacancy in a suffragan see under clause 17.
50. The Committee agreed that clause 12 should stand part of the Measure.

Clause 13 – Delegation by instrument of certain functions to suffragan or assistant bishop

51. Mr Clive Scowen spoke to his proposal for express provision to allow for a diocesan bishop and diocesan synod jointly to make permanent/ indefinite area schemes and create permanent/ indefinite area jurisdictions and areas. The Steering Committee considered that the provisions in the clause as drafted, which gave dioceses freedom to make (and unmake) their own arrangements for the delegation of episcopal oversight, inter alia, for such a period as might be specified (with unlimited power to renew), and including delegation by reference to a geographical area, gave them full power to make whatever arrangements seemed appropriate in the light of local needs and circumstances and current conditions. The Steering Committee did not support the possibility of creating of "permanent" area schemes. This would mean that certain arrangements could not be rescinded or amended by the diocese itself, but only with the approval of the Synod, whereas the intention of the draft Measure was to devolve decision-making power on this matter to the dioceses. The Committee concurred, and did not accept the proposal.
52. The Steering Committee proposed an amendment to subsection (12). This related to the ability of the new Dioceses Commission (under clause 3 of the draft Measure) to

keep the diocesan structure under review. The amendment would ensure that the Commission was notified of any delegation under clause 13, which was something that it would need to know about in order to perform its review function. The Committee agreed that this amendment should be made.

53. The Steering Committee reported on a matter that had been brought to its attention by the Designated Officer appointed under the Clergy Discipline Measure 2003 (“the 2003 Measure”). The Code of Practice for the 2003 Measure recommended that where a complaint presented the diocesan bishop with a conflict of interest then the bishop should delegate his judicial functions under the 2003 Measure (for that case only) to a suffragan bishop. However this raised problems for those dioceses without a suffragan bishop. The same issue could arise in contexts other than clergy discipline and therefore the Steering Committee agreed that a solution to the general problem was needed, rather than one that was confined solely to the 2003 Measure. The Steering Committee therefore proposed the insertion of subsection (16) (and a consequential amendment to the heading) which would allow the diocesan bishop to delegate functions to a duly commissioned assistant bishop as an alternative to delegation to a suffragan bishop. This power to delegate to an assistant bishop would be subject to the same provisions, for example as regards approval by the diocesan synod or the bishop’s council, as the power to delegate to a suffragan, and would give the diocese the power to decide how far functions should be formally delegated to any assistant bishop. The Committee agreed to this amendment being made.
54. The Committee agreed that clause 13 (as amended) should stand part of the Measure.

Clause 14 – Discharge of certain functions of bishop

55. The Steering Committee proposed an amendment to subsection (9). This amendment again related to the ability of the new Dioceses Commission to keep the diocesan structure under review. It would ensure that the Commission was notified of delegations under clause 14, which would assist in performing its review function. The Committee agreed that this amendment should be made.
56. The Committee agreed that clause 14 (as amended) should stand part of the Measure.

Clause 15 – Special provision with respect to rights of collation

57. Mr Clive Scowen spoke to his proposal that the exercise of rights of collation (where already delegated to a suffragan bishop) should continue to be delegated to the suffragan bishop during a vacancy in the diocesan see, as this would be less disruptive than the rights of collation reverting to the Crown under the present law, reflected in clause 15 as drafted. The Steering Committee explained that this clause (repeating a provision in the 1978 Measure) was included to make clear that during a vacancy in the diocesan see a suffragan bishop could no longer exercise the diocesan bishop’s rights of patronage under delegated powers, because as a matter of law the rights were then vested in the Crown. The Steering Committee recommended that this clause should not be amended, as that would involve changes to the law governing the Crown’s rights of patronage, which would require careful consideration and far more work than this Committee could reasonably devote to it.

The Steering Committee was reinforced in this view by the information it had received that problems did not arise in practice in the circumstances described, as during a vacancy in the diocesan see those responsible for advice to the Crown still tended to rely on the suffragan bishop to oversee the process of selecting a candidate for the vacant benefice, although the Crown made the formal presentation. The Committee concurred and did not accept the proposal.

58. The Committee agreed that clause 15 should stand part of the Measure.

Clause 16 – Provision with respects to Acts, etc. which confer functions on a diocesan bishop

59. No proposals or submissions were received and no amendments were proposed.

60. The Committee agreed that clause 16 should stand part of the Measure.

Clause 17 – Provisions with respect to filling of suffragan sees

61. The Archdeacon of Lincoln (the Venerable Arthur Hawes) spoke to his proposal to remove the requirement for consecration to episcopal orders to be to a see (either diocesan or suffragan). Rather he suggested that it should be possible to be consecrated to hold office in the diocese but without having a see. He pointed out that a person who had already been consecrated to the episcopate could move to another appointment (for example as the dean of a cathedral) which did not involve his holding a see, and therefore it would provide more flexibility to also allow for this at consecration. The Steering Committee considered that any change here would have significant implications, for example as regards the Crown's rights and role in relation to the consecration of bishops, and would break not only with the legal arrangements as regards this enshrined in sixteenth century legislation but also with ecclesiology enshrined in centuries of Church history before that (with implications also for the requirement that admission to Holy Orders in the case of priests and deacons should be to a "title" rather than to diaconal or priestly ministry more generally). Also, significantly, this was a new proposal that was not contained in *A Measure for Measures* and the Steering Committee considered that it was not really appropriate to attempt to deal with such a fundamental ecclesiological issue at such a relatively late stage in the work on this draft Measure, without adequate groundwork and consultation. The Committee concurred and agreed that any amendment to the law in this area would require a separate Measure. It therefore did not accept the proposal.
62. In order to avoid the excessive delay that might result from having to wait for the next meeting of the diocesan synod when consulting the diocesan synod on whether a vacancy in a suffragan see should be filled, the Bishop of Winchester (the Right Reverend Michael Scott-Joynt) proposed an amendment to subsection (1) to the effect that the bishop should be required to consult the bishop's council and standing committee instead, with this decision then being confirmed at the next meeting of the diocesan synod. The Steering Committee agreed that the present provision requiring consultation with the diocesan synod in all cases could result in substantial delay and/or expense and pointed out that, in discharging his duty under clause 12, the

diocesan bishop might well already have consulted the diocesan synod about the provision of episcopal ministry and oversight in the diocese. The Steering Committee agreed that the type of flexibility provided in section 13(8) should also be provided here (so that the diocesan bishop could, if he considered that the matter was urgent and that it was not practicable to consult the diocesan synod, consult the bishop's council and standing committee instead) and proposed an amendment to subsection (1) (and a consequential amendment to subsection (2)) to that effect. Mr Scowen spoke of his concern that clause 17 as drafted would result in long and unnecessary delays in filling suffragan sees. He had originally proposed that the bishop should be able to consult with either the diocesan synod or, if he thought fit, his bishop's council. However, Mr Scowen now indicated to the Committee that he supported the proposals from the Steering Committee.

63. The Committee agreed to the two amendments proposed by the Steering Committee being made. On the amendment to subsection (1) the Committee voted seven in favour, with three against; on the consequential amendment to subsection (2) the Committee voted eight in favour, with one against. The Committee agreed that it would be necessary for guidance to be given as what would constitute "urgent" and "not practicable" in this context.
64. Mr Clive Scowen spoke to his proposal that subsections (2) to (7) should apply only where the Dioceses Commission was conducting a review or preparing a reorganisation scheme that would affect the diocese. The object of this proposal was, again, to cut down on unnecessary delay and damage to episcopal leadership. Mr Peter Smith's proposal asked for a 'fast track' procedure to by-pass clause 17, to apply if, say, a second vacancy in a suffragan see in the diocese occurred within four years under the same diocesan bishop.
65. The Steering Committee urged the Committee to reject the first of these proposals on the ground that it was completely contrary to the spirit and intention of the *A Measure for Measures*. The proposal in that report was that there should be an opportunity for an assessment of the continued need for a new appointment to a suffragan see on every vacancy (recommendation 11 - GS 1528, page 16). That said, it was accepted that the new Commission and the archbishops would deal with all proposals referred to them as speedily as possible within the maximum periods provided. On the second proposal, the Steering Committee had some sympathy, in principle, with the idea of a 'fast track' provision. However it was concerned not to complicate these provisions further by providing for a number of different situations that might arise and that could be said to qualify for a fast track approach (for instance, two vacancies in the same suffragan see in quick succession). The Committee accepted the Steering Committee's views on these proposals and therefore did not adopt them.
66. The Committee agreed that clause 17 (as amended) should stand part of the Measure.

Clause 18 – Provision with respect to creation of suffragan sees

67. No proposals or submissions were received and no amendments were proposed.

68. The Committee agreed that clause 18 should stand part of the Measure.

Clause 19 – Schemes with respect to discharge of functions of diocesan bodies corporate, etc.

69. Mr Clive Scowen spoke to his proposal, which questioned the need for the consent of the Dioceses Commission to “shared administration” schemes dealing with the discharge of functions of diocesan bodies, especially given that the clause as drafted also provided for the involvement of the Church Commissioners (“the Commissioners”). Mr Scowen saw this provision for consent as a bureaucratic obstacle to change and proposed that it should be deleted from clause 19(3).

70. The Steering Committee’s view was that the involvement of a central Church body was necessary and that the Dioceses Commission (as opposed to the Archbishops’ Council, which had a corresponding role under the provisions for “shared administration” schemes in the amended 1978 Measure) was the appropriate body to be involved. One of the reasons for this was the number of new diocesan bodies for which legislation since 1978 had laid down very carefully considered mandatory provisions, especially as regards membership, and the need to ensure that clause 19 was applied to them in a way that did not undermine the intention of those provisions. In the Steering Committee’s view, it would therefore be important in the future to ensure that the way in which clause 19 was used was closely monitored, so that dioceses could be alerted to any problems in their proposals for shared administration in this respect and given guidance on how to overcome them. Also, the Steering Committee saw it as important that a national perspective should be brought to bear on diocesan decisions in this area.

71. Mr Paul Lewis reported that the Commissioners had investigated their involvement (for advice and comment) in the making of these schemes and had concluded that there was no longer any need for this.

72. In discussion the Committee agreed that the Dioceses Commission (rather than the Archbishops’ Council as at present) was the appropriate body to be involved. However, Mr Timothy Allen drew attention to the fact that, in requiring the consent of the central body, clause 19(3) seemed to follow the current 1978 Measure. He was concerned that this ran counter to recommendation 10 of *A Measure for Measures*, which had called for a central body with monitoring powers, but recommended that it “... should not ... exercise these powers in such a way as to disempower the dioceses”.

73. The Steering Committee proposed amendments to subsections (3), (5) and (9) that would have the effect of removing the requirement to consult the Commissioners, but would still require the Dioceses Commission’s consent to be given. This set of amendments would also require a copy of the final scheme to be sent to the Commission rather than the Commissioners. The Bishop of Exeter reported that the Steering Committee had considered an alternative option that would have removed the Commissioners’ role but would also have substituted a requirement to consult the Dioceses Commission for the requirement to obtain the Commission’s consent. However the Steering Committee had decided not to propose this alternative

amendment as it remained of the view that the requirement to obtain the Commission's consent was an important and necessary one for reasons given above (see item 70). Mr Timothy Allen continued to oppose an arrangement whereby the Commission's consent to a scheme was required. He saw this as contrary to the principle of subsidiarity and he would have preferred the draft Measure to do no more than require the Commission to be consulted. The Committee accepted the Steering Committee's views and agreed that the amendments the Steering Committee proposed should be made, without changing the requirement for the Dioceses Commission's consent. The voting was eight in favour and one against.

74. The Committee also agreed to an amendment to clause 19(1) proposed by the Steering Committee to bring unincorporate as well as corporate bodies within the definition of "diocesan bodies" for the purpose of this clause.
75. The Committee agreed that clause 19 (as amended) should stand part of the Measure.

Clause 20 – Further provisions with respect to schemes under s.19

76. The Steering Committee proposed an amendment to substitute a new subsection (3), providing for the application of the concept of 'shared administration' to diocesan statutory bodies, such as boards of education, which had in general been established by legislation after the 1978 Measure. The Steering Committee explained that there was no provision in the 1978 Measure to allow for this to happen at present. The Committee agreed that the concept of 'shared administration' should extend to these diocesan statutory bodies, subject to the other existing procedures and safeguards in clause 19 applying and subject to the existing exclusion of the diocesan synod and the bishop's council and standing committee.
77. Mr Nigel Spraggins pointed out that such shared administration was already happening on an 'informal' basis and considered that the new provision would be welcomed by the dioceses as it would allow them to establish the arrangements on a formal footing. The Committee also noted the proposals would not prevent such informal arrangements from continuing. The Committee agreed to this amendment being made.
78. The Steering Committee also proposed an amendment to subsection (1) to insert the word "unincorporate" as in clause 19(1) - see item 74 above - and the Committee agreed that this amendment should be made.
79. The Committee also agreed that the new Commission should be asked to produce comprehensive guidance on 'shared administration'.
80. The Committee agreed that clause 20 (as amended) should stand part of the Measure.

Clause 21 – Power of Commissioners to pay stipend, etc. of certain bishops

81. No proposals or submissions were received and no amendments were proposed.
82. The Committee agreed that clause 21 should stand part of the Measure.

Clause 22 – Interpretation of Part II

83. No proposals or submissions were received and no amendments were proposed.
84. The Committee agreed that clause 22 should stand part of the Measure.

Part III – Procedure for making Pastoral Schemes and Orders and Pastoral Church Buildings Schemes

General points

85. Mrs Gill Morrison had asked for reassurance to be given that with reorganisation the rights of patrons to make appointments would not be lost. The Committee noted that the register of patrons that was maintained under the Patronage (Benefices) Measure 1986, taken together with the existing provisions of the 1983 Measure, ensured that the rights of patrons were not lost or overlooked.
86. Mr Clive Scowen spoke to his proposal, raising a purely drafting point concerning the two versions of Part I of the 1983 Measure that the draft Measure would create, the first for pastoral schemes and orders, and the second for pastoral church schemes. As an alternative to this arrangement, which he considered would be confusing; he proposed that the provisions for pastoral church schemes should set out in full in the draft Measure and should be inserted in full after section 16 of the 1983 Measure as sections 16A to 16N. Standing Counsel explained to the Committee that he had deliberately adopted the present approach in order to avoid setting out in the draft Measure the whole of the text of sections 3 to 16 of the 1983 Measure as they applied to cases involving the closure of churches. Standing Counsel explained that the approach adopted was in his opinion the clearest, even if not ideal from some points of view. It also had to be borne in mind that the whole of the amended provisions would appear in full on the consolidation of the legislation. The Committee agreed that it would not be satisfactory to alter the approach taken by Standing Counsel at this stage and therefore did not adopt Mr Scowen's proposal.
87. Mr Scowen spoke to his proposal that pastoral schemes should be assimilated to pastoral orders, with the pastoral order procedure applying. He saw no reason for the proposed pastoral scheme procedure for proposals that would not involve the closure of a church. Mr Paul Lewis explained that the Commissioners did not support this proposal, although they fully appreciated the value of proceeding by means of pastoral order where that was appropriate; hence their proposal for a 'deemed' procedure for consent to pastoral orders (see item 109-110 below). Nevertheless, the Commissioners still saw a need for both pastoral schemes and pastoral orders, as they provided a clear 'graduation' for proposals, based on the potential impact on rights and legitimate interests of those affected, and thus for the procedure applying to them. The amalgamation which Mr Scowen proposed would also affect the right to seek leave to appeal to Privy Council, which only applied to schemes. The Committee concurred with the Commissioners and therefore did not adopt Mr Scowen's proposal.

88. Mr Clive Scowen spoke to his proposal that the Commissioners need not have any role in the validating and making of pastoral schemes or orders. He took the view that the dioceses retained the professional legal services, in the form of the diocesan registry, that could carry out this work (seeking advice from the Commissioners or others if required). He therefore proposed that clause 27 should be omitted and section 5 of the 1983 Measure repealed. He also proposed that new impartial ‘light-touch’ tribunals should exercise the Commissioners’ present function of considering representations. In his view using these tribunals, rather than the Commissioners, who were a “settled church” institution, would signal the different spirit and culture which the draft Measure was intended to promote. In response, Mr Paul Lewis argued in favour of the Commissioners’ validation role. The expertise at the Commissioners’ disposal was of proven value in helping to eliminate problems or concerns before they attracted written representations or before the Commissioners were required to defend their schemes to the Privy Council, so he saw no benefit to be gained from removing the validation role. Mr Lewis also considered that there was little merit in replacing one body exercising a quasi-judicial function (and answerable to Parliament) with another (or others) (whose composition was at yet undefined) when this would bring with it no greater protection of the right of the public to make representations and have them considered impartially. On the contrary, Mr Scowen’s proposal was likely to be detrimental, as it would involve the loss of a valuable ‘central’ stabilising feature and the ‘goodwill’ that the Commissioners had built up in the exercise of this responsibility over the years. Given that, Mr Lewis argued that the Commissioners should retain their validation and quasi-judicial functions, and agreed with *A Measure for Measures*, which had recognised that “... given its validation and quasi-judicial ... roles, ... the central body [i.e. the Commissioners] should make the scheme” (paragraph 3.86). The Committee concurred, and did not adopt Mr Scowen’s proposals.

Clause 23 – Amendment of Part I of Pastoral Measure 1983

89. Mr Frank Knaggs spoke to his proposal that pastoral schemes not involving the closure of a church should continue to be drafted and published by the Commissioners rather than being devolved to the dioceses (and thus continue on the same basis as schemes involving closure of a church, which would continue to be drafted by the Commissioners). Mr Paul Lewis explained that when dioceses had originally been consulted on this proposal they had not been of a unanimous view on how to proceed. Nevertheless, to amend the draft Measure now to follow the approach advocated by Mr Knaggs would be contrary to the recent practice of devolution to the dioceses so far as was possible. Mr Lewis also stressed that the Commissioners would retain a validating role for schemes drafted by the dioceses. Mr Nigel Spraggins endorsed what Mr Lewis had said and noted that differing views amongst dioceses depended to a great extent on their experience of pastoral reorganisation locally (and therefore the level of local expertise that had been built up). Mr Spraggins considered that what was important was that the pool of expertise provided by the Commissioners would continue to be available to dioceses under the proposed new structure. The Committee was content and agreed not to adopt Mr Knaggs’ proposal.

90. The Steering Committee proposed an amendment to subsections (2) and (4) to substitute the words “pastoral church building scheme” for the words “pastoral church scheme” (and to the heading to Part III to substitute the words “pastoral church building schemes” for the words “pastoral church schemes”). It also proposed that the same amendment should be made (in the singular or the plural as the sense required) wherever these words occurred in the draft Measure; and proposed certain other related amendments⁴. The purpose of these amendments was to distinguish more clearly the church as a building from the Church as the worshipping body of Christ. The Committee agreed that all these amendments should be made.
91. The Committee agreed that clause 23 (as amended) should stand part of the Measure.

Clause 24 – Pastoral Schemes and orders

92. No proposals or submissions were received and no amendments were proposed.
93. The Committee agreed that clause 24 should stand part of the Measure.

Clause 25 – Formation and submission to bishop of draft proposals

94. No proposals or submissions were received and no amendments were proposed.
95. The Committee agreed that clause 25 should stand part of the Measure.

Clause 26 – Approval by bishop of draft proposals and preparation of draft scheme

96. No proposals or submissions were received and no amendments were proposed.
97. The Committee agreed that clause 26 should stand part of the Measure.

Clause 27 – Consideration of draft scheme or order by Commissioners

98. No proposals or submissions were received and no amendments were proposed.
99. The Committee agreed that clause 27 should stand part of the Measure.

Clause 28 – Notice and publication of draft scheme or order

100. Mr Frank Knaggs spoke to his concern at the removal of the present requirement on the bishop to inform the interested parties of draft proposals at the same time as he sends the draft proposals to the Commissioners prior to their preparing a draft scheme to give effect to the proposals. He drew attention to the impact that removing this advance notification would have on the ability of those interested parties to

⁴ These other amendments (to the heading to Part IV and clauses (as renumbered) 41 (new section 42(1) and (5)), 43 (new sub-section (2A)), 44(c), 53(3)(e) and 56(3) and (originally numbered) Schedule 5, paragraph 2) (see items 128, 132, 136, 138, 220, 274 and 365 below) were required to ensure that the new provisions were consistent with the current wording of the 1983 Measure, in which church buildings in use were referred to as “churches” but church buildings which had been closed for public worship were referred to as “buildings”.

respond within a 28 day period once a draft scheme was published. In his view 28 days was not long enough, and he proposed that this period should be amended to a minimum of two months. Mr Paul Lewis made two points in response, the first of which was that the interested parties would still be consulted on the formulation of the bishop's draft proposals, which would provide them with some advance notice of what was likely to form the backbone of any scheme. The second was that the notice period for the submission of representations on a draft scheme would remain at not less than 28 days, and that the Code of Practice would advise dioceses to adopt the established practice which the Commissioners had followed thus far of allowing more than 28 days where appropriate. The Committee was content and did not adopt Mr Knaggs' proposal.

101. The Committee agreed that clause 28 should stand part of the Measure (for details of a subsequent amendment to this clause see item 148 below).

Clause 29 – Amendment of draft scheme or order

102. Mr Clive Scowen spoke to his proposal regarding the proposed amendment to section 7 of the 1983 Measure to be brought about by clause 29(b) of the draft Measure (dealing with amendments to draft schemes or orders made by the Commissioners after the pastoral committee had served notice that representations may be made). He asked who would determine whether an amendment was a “minor drafting amendment” and thus whether or not the scheme or order would need to be served again under section 6 of the 1983 Measure. If this was to be determined by the Commissioners or the new tribunal that Mr Scowen was proposing (see item 88 above), he proposed that express provision should be made for that in the draft Measure.
103. The Steering Committee accepted that this point could helpfully be clarified and proposed an amendment to clause 29(b) which would leave it to the Commissioners to determine what was a minor drafting amendment. The Committee agreed to this amendment being made.
104. The Committee agreed that clause 29 (as amended) should stand part of the Measure.

Clause 30 – Making of scheme or order

105. No proposals or submissions were received and no amendments were proposed.
106. The Committee agreed that clause 30 should stand part of the Measure.

Clause 31 – Transmission of copies of scheme or order

107. No proposals or submissions were received and no amendments were proposed.
108. The Committee agreed that clause 31 should stand part of the Measure.

New clause 32 – Power of bishop to formulate and submit proposals on certain matters

109. Mr Paul Lewis spoke to the Commissioners’ proposal regarding “shortened procedure orders”. Currently section 14(1) of the 1983 Measure provided that if the bishop, after consultation with the diocesan pastoral committee, was of the opinion that proposals could and should be implemented by a pastoral order (limited by section 37 of the 1983 Measure to, essentially, changes that did not affect the rights of any party – e.g. a change of name of a benefice or parish, or an alteration in boundaries), and if the interested parties consented to the proposals, then the pastoral committee would prepare a draft order to give effect to the proposals, and the bishop could simply make the order without further consultation. However, in practice, this ‘shortened’ procedure had rarely been used, as it relied on the affirmative consent of all the interested parties being received, so that in effect it was little quicker than the ‘standard’ route for the approval of pastoral orders.
110. Mr Lewis explained that in the Commissioners’ view, what was required in order for this procedure to be used effectively was a negative (‘deemed’) consent procedure, as most interested parties would write in only if they were unhappy with a proposal. This had been a recommendation of *A Measure for Measures* (recommendation 35) but the Follow-Up Group had not provided for it in the draft Measure as it had taken the view that the matter required further consideration and should be taken to the Revision Committee. (GS 1597-99X, paragraph 27, last bullet point). However, the Follow-Up Group’s concern had not been with the principle of the recommendation but with precisely what amendments would be needed to ensure that all interested parties not only had an opportunity to object if they wished but were also formally notified that if they did not respond to the proposals they would be taken to have consented to them. Mr Nigel Spraggins supported the Commissioners’ proposal, which he felt would be welcomed by most dioceses and parishes involved.
111. Mr Clive Scowen had nothing further to add in relation to his proposal on this point, which had been to the same effect as that of the Commissioners, although he raised the question of what would happen under a deemed consent procedure if one of the interested parties did object, but the diocese agreed to make amendments to meet the objection. The Committee was content with the position under the draft Measure as it stood, namely that the original order, as amended, could not go forward under the deemed consent procedure although it would be open to the diocese to begin with a fresh draft order and, if all concerned were then content, to use the deemed consent procedure for it.
112. The Steering Committee proposed the insertion into the draft Measure of a new clause 32 to provide for a deemed consent procedure. This provided for all interested parties to be notified in writing both of the period (which was required to be not less than 28 days) for sending a response to the pastoral committee about the proposals and also that if an interested party did not send in an objection within that period he or she would be deemed to have consented the proposals. The Committee agreed to this clause being inserted into the Measure.

Clause 32 (renumbered 33) – Withdrawal of scheme or order at request of bishop

113. No proposals or submissions were received and no amendments were proposed.
114. The Committee agreed that clause 32 (renumbered 33) should stand part of the Measure.

Clause 33 (renumbered 34) – Supplementary powers of Commissioners and pastoral committees

115. No proposals or submissions were received and no amendments were proposed.
116. The Committee agreed that clause 33 (renumbered 34) should stand part of the Measure.

Clause 34 (renumbered 35) - Pastoral church buildings schemes

117. Amendments were made to substitute the words “pastoral church buildings schemes” for the words “pastoral church schemes” in the italicised heading before this clause, in the heading to the clause and in subsection (1) (see item 90 above).
118. The Committee agreed that clause 34 (renumbered 35) (as amended) should stand part of the Measure.

Clause 35 (renumbered 36) – Formulation and submission to bishop of draft proposals

119. Mr Peter Smith proposed that the civil parish council be included amongst the interested parties to be consulted by the diocesan pastoral committee before it made recommendations to the bishop on proposals for a pastoral church buildings scheme, or at least that it should have a statutory right to be informed of the proposals. He considered that this could engender much goodwill locally. Mr Paul Lewis reported that the Commissioners agreed that this was a helpful idea and were content that it was practicable, provided it was confined to the parish council of the civil parish in which any church proposed to be closed for regular public worship was situated.
120. The Steering Committee proposed an amendment to insert a new subsection (a) to achieve this. Standing Counsel explained that the amendment made it clear that in a case where the civil parish had no parish council, but had a parish meeting, the chairman of the (civil) parish meeting was to be treated as the interested party. The Committee noted that there was a precedent for this in the Charities Act 1993. The Committee agreed to this amendment being made and to the consequential amendments which were required to the new subsection (e) of clause 45 (as renumbered) and in the new paragraph 16 of Schedule 5 (see items 143 and 395 below).
121. The Committee agreed that clause 35 (renumbered 36) (as amended) should stand part of the Measure. (A further amendment was made at a later stage in the Committee’s work which was consequential on the change of name of the Council

for the Care of Churches to the Church Buildings Council - see footnote 21 to item 262 below).

Clause 36 (renumbered 37) – Amendment of proposals and preparation of draft scheme by Commissioners

122. No proposals or submissions were received and no amendments were proposed.
123. The Committee agreed that clause 36 (renumbered 37) should stand part of the Measure. (For details of a further amendment made at a later stage in the Committee’s work which was consequential on the change of name of the Council for the Care of Churches to the Church Buildings Council, see footnote 21 to item 262 below).

Clause 37 (renumbered 38) – Notice and publication of draft scheme

124. Recommendation 33(c) of *A Measure for Measures* had proposed that “objectors should have a right, on request, to make (time limited) oral representations before the adjudicating body”. The Follow-Up Group had noted “that the Commissioners were already introducing an opportunity for those making representations to seek the opportunity to speak ... and considered this was an appropriate way forward” (GS 1597-99X, paragraph 27, fifth bullet point). Mr Clive Scowen spoke to his proposal asking for the main point of recommendation 33(c) (i.e. a right to make oral representations) to be enshrined in the Measure, rather than relying on the discretion of the Commissioners and their practice. Mr Paul Lewis explained that the Commissioners opposed Mr Scowen’s submission. They considered it was preferable to leave a discretion with the person or body to whom the objections were made to deal with them most appropriately (for example, by encouraging arrangements for one person to speak for all those making the same point), rather than building in detailed and inflexible provisions giving each objector an absolute legal right to make oral submissions. This would be particularly relevant where there were multiple objections (which the Commissioners sometimes received), when to allow each objector a right to make an individual oral representation could impose a very heavy burden on the Commissioners and prove impractical. The Committee agreed with Commissioners and did not adopt Mr Scowen’s proposal.
125. The Committee agreed that clause 37 (renumbered 38) should stand part of the Measure. (For details of further amendments made to this clause at later stages in the Committee’s work see footnote 21 to item 262 below and item 148 below).

Clause 38 (renumbered 39) – Transmission of copies of scheme

126. No proposals or submissions were received and no amendments were proposed.
127. The Committee agreed that clause 38 (renumbered 39) should stand part of the Measure. (For details of an amendment made at a later stage in the Committee’s work which was consequential on the change of name of the Council for the Care of Churches to the Church Buildings Council, see footnote 21 to item 262 below).

Part IV – Church buildings closed for regular public worship

128. An amendment was made to the heading to Part IV (see footnote 4 to item 90 above).

Withdrawal of proposal for amendment on Part IV

129. Mr Paul Lewis informed the Committee that the Commissioners were withdrawing a proposal for an amendment to section 59 of the 1983 Measure regarding the vesting of buildings in the diocesan board of finance in trust for the PCC (see Appendix II).

Clause 39 (renumbered 40) – Amendment of Part III of Pastoral Measure 1983

130. An amendment was made to substitute the words “pastoral church buildings scheme” for the words “pastoral church scheme” in subsection (2) (see item 90 above).

131. The Committee agreed that clause 39 (renumbered 40) (as amended) should stand part of the Measure.

Clause 40 (renumbered 41) – Functions of pastoral committee concerning buildings closed for regular public worship

132. This clause substituted a new section for section 42 of the 1983 Measure. Drafting amendments relating to those which the Committee had agreed to make to clause 23 were made to sub-sections (1) and (5) of the new section 42 (see footnote 4 to item 90 above).

133. The Committee agreed that clause 40 (renumbered 41) (as amended) should stand part of the Measure.

Clause 41 (renumbered 42) – Provision by pastoral church buildings scheme for appropriation or demolition of church to be closed for regular public worship to be replaced by new church

134. Amendments were made to substitute the words “pastoral church buildings schemes” for the words “pastoral church schemes” in the italicised heading before this clause and to substitute the words “pastoral church buildings scheme” for the words “pastoral church scheme” in the heading to the clause and in subsection (a) (see item 90 above).

135. The Committee agreed that clause 41 (renumbered 42) (as amended) should stand part of the Measure. (For details of a further amendment made at a later stage in the Committee’s work which was consequential on the change of name of the Council for the Care of Churches to the Church Buildings Council, see footnote 21 to item 262 below).

Clause 42 (renumbered 43) – Other provision by pastoral church buildings scheme for church closed for regular public worship

136. Amendments were made to substitute the words “pastoral church buildings scheme” for the words “pastoral church scheme” in the heading to this clause and in subsection (b) (see item 90 above) and a further drafting amendment was made to subsection (b) (see footnote 4 to item 90 above).
137. The Committee agreed that clause 42 (renumbered 43) (as amended) should stand part of the Measure. (For details of a further amendment made at a later stage in the Committee’s work which was consequential on the change of name of the Council for the Care of Churches to the Church Buildings Council, see footnote 21 to item 262 below).

Clause 43 (renumbered 44) – Use seeking period

138. The Steering Committee proposed amendments to substitute the words “pastoral (church buildings disposal) schemes” for the words “pastoral (church disposal) schemes” in the italicised heading before this clause, to substitute the words “pastoral (church buildings disposal) scheme” for the words “pastoral (church disposal) scheme” in subsection (c), and for these amendments to be made (in the singular or the plural as the sense required) wherever those words occurred in the draft Measure. The reason for these amendments was the same as for those set out in item 90 above, namely to distinguish more clearly the church as a building from the Church as the worshipping body of Christ, and for that reason the Committee agreed that these amendments should be made. Further drafting amendments were made to subsection (c) (see footnote 4 to item 90 above).
139. The Committee agreed that clause 43 (renumbered 44) (as amended) should stand part of the Measure. (For details of amendments made at a later stage in the Committee’s work which were consequential on the change of name of the Council for the Care of Churches to the Church Buildings Council, see footnote 21 to item 262 below).

Clause 44 (renumbered 45) – Procedure for making pastoral (church buildings disposal) schemes

140. An amendment was made to substitute the words “pastoral (church buildings disposal) schemes” for the words “pastoral (church disposal) schemes” in the heading to this clause (see item 138 above).
141. This clause consisted of amendments to section 50 of the 1983 Measure. The Commissioners proposed some further amendments to section 50 in order to avoid unnecessary delays in the process. The first of these would alter the requirement for the Commissioners to consult with the bishop before preparing the draft scheme (as at present) to a requirement to consult him at a slightly later stage, before publishing the draft scheme and giving notice of it.

142. As regards the requirement to consult the ‘advisory body’ (currently the Advisory Board for Redundant Churches but, under provisions already contained in the draft Measure, the Council for the Care of Churches) before preparing the draft scheme in certain cases, this would continue to apply if there was a proposal for demolition (unless the advisory body had already advised that this was not objectionable) or a proposal to vest the building in the Churches Conservation Trust (“the CCT”). However, if the scheme was to provide for appropriation to a new use, and if architectural or structural changes were proposed to facilitate that use, the amended section would allow the Commissioners a discretion as to the stage before the scheme was made at which the consultation with the ‘advisory body’ about these changes had to take place. The detailed changes would not appear in the scheme itself, and Mr Paul Lewis explained that the point at which consultation about them took place would depend, in particular, on when the full details were available⁵.
143. The Steering Committee supported these proposals, and proposed the insertion of new subsections (c) to (f), with which the Commissioners were content, to achieve what was required. (In relation to the new subsections (c) and (e), see also items 262 and 120 above). The Committee agreed that these amendments should be made.
144. The Commissioners also proposed an amendment to section 50 to give them power to extend the period within which written representations could be made on pastoral (church buildings disposal) schemes. This would parallel the power that already existing in respect of pastoral schemes and pastoral church buildings schemes under section 6(6) of the 1983 Measure.
145. The Archdeacons of Lewisham and Colchester both expressed some concerns about this proposal. To them it appeared that the position with regard to pastoral schemes was not altogether analogous. They were conscious of the emotions and concerns that proposals to dispose of a church building could engender in a locality and how the incumbent was often the focus of any opposition during the period in which representations could be made. They would therefore be wary of any undue extension of the representation period because of the additional stress that this could place on the incumbent and parish.
146. In response, the Commissioners recognised the concerns expressed about unduly prolonging the process. However, they considered that a brief extension might be appropriate in some circumstances (and indeed might avoid prolonging the process where the alternative was re-publication). The Commissioners also accepted and endorsed the need for a firm statement in the Code of Practice on the sparing use of such a power. The Archdeacon of Colchester welcomed what the Commissioners had said and underlined the importance of this matter being dealt with comprehensively

⁵ Ms Paula Griffiths asked for clarification of the consultation process. She pointed out that it would be important for the ‘advisory body’ to be consulted at an early stage. Mr Paul Lewis pointed out however that the proposal mirrored what was effectively current practice. Many developers seeking to take on a church building for alternative use would not have detailed plans available at the time when a scheme was prepared and published, and would be reluctant to incur the expense of doing so unless there was a reasonable likelihood that the scheme would proceed. The Committee also noted that advisory body would in any case receive a copy of the draft scheme itself when notice of it was published and given to other bodies.

and clearly in the Code. The Committee was content, and agreed that this amendment should be made.

147. The Commissioners proposed a further amendment to give them the power to afford the opportunity to persons, whether or not they had made written representations on a pastoral (church buildings disposal) scheme, to make oral representations to the Commissioners. This would parallel the existing provision in section 6(5) of the 1983 Measure for pastoral schemes and pastoral church buildings schemes, and the Committee agreed that this amendment should be made.
148. The amendment, which would insert a new sub-section (5A) into section 50 of the 1983 Measure, deliberately did not include the words “to their representative” after the word “representations” which appeared in the present section 6(5), as it was now the Commissioners’ practice for oral representations to be made to the full Pastoral Committee and not to a sub-committee. The Committee, to be consistent, agreed to amendments that would delete these words from section 6(5) of the 1983 Measure, dealing with pastoral schemes and pastoral church buildings schemes, by amendments to clauses 28 and 37 (renumbered 38) respectively of the draft Measure (see items 101 and 125 above).
149. The Committee agreed that clause 44 (renumbered 45) (as amended) should stand part of the Measure. (For details of subsequent consequential amendments to this clause see footnote 21 to item 262 below).

Clause 45 (renumbered 46) – Contents of pastoral (church buildings disposal) schemes

150. An amendment was made to substitute the words “pastoral (church buildings disposal) schemes” for the words “pastoral (church disposal) schemes” in the heading to this clause (see item 138 above).
151. The Committee agreed that clause 45 (renumbered 46) (as amended) should stand part of the Measure. (For details of a subsequent consequential amendment to this clause see footnote 21 to item 262 below).

Part V - Mission

General points

152. Mr Dudley Coates emphasised the major organisational and conceptual shift that he foresaw would be introduced into the life of the Church of England by mission initiatives. One of the major features of this change would be a partial moving away from working within a clearly defined geographical parochial system, something that other Churches did not have to the same extent. In response, the Reverend Simon Bessant stressed that mission initiatives would be fully compatible with Anglican ecclesiology, as they had the diocesan bishop at their centre. The Bishop of Exeter agreed and noted that they had worked in other Churches with similar parochial structures to the Church of England.

153. Mr Frank Knaggs spoke of how he anticipated that over time mission initiatives would change the shape of the Church of England and would inevitably lead to more permeable boundaries between Churches. Mr Knaggs was concerned that in including provision in any mission order for participation in an LEP, bishops would be constrained in their choice of ecumenical partners. However, the Steering Committee noted that provision was made in Part V for ecumenical cooperation other than in the form of an LEP; this would allow for co-operation with Churches that were not within the provisions of the Church of England (Ecumenical Relations) Measure 1988.

Ecumenical considerations relating to Part V

154. Mr Dudley Coates drew attention to the inclusion of the words “as he thinks or they think fit” in clause 46(6)(a) (renumbered as 47(6)(a)), on consultation with other Churches and religious organisations before making a bishop’s mission order. He contrasted this with the mandatory requirement to consult with persons with a significant interest etc. under clause 46(6)(b) (renumbered as 47(6)(b)), and concluded that this might suggest, to the general reader, that “the bishop must consult all affected Anglicans but has a discretion as to whether he needs to consult other Churches”. The Steering Committee took the view that both in principle and in practice this should not be an issue, as Mr Coates himself conceded in his submission. It noted that in law the bishop would not have an unfettered discretion under the renumbered clause 47(6)(a), as he was under a duty to act reasonably. He must consider whether it was right to consult other Churches and/or religious organisations in the particular case and, if so, which ones, and if he thought it was right to carry out such consultation he was under a duty to do so. Therefore in these circumstances it was anticipated that he would consult any ecumenical partners affected. Also detailed guidance on this matter would need to be provided in the Code of Practice, where such issues as identifying responsible contacts from ecumenical partners could also be dealt with. The Committee concurred.
155. Mr Coates also wished to see a reference to the ecumenical dimension incorporated into the role of the Visitor. He pointed out that special considerations might apply where provision for an LEP was to be included in the mission order. Mr Coates also asked for a reference to the ecumenical dimension in relation to variations to a mission order.
156. Following discussion with the Council for Christian Unity, the Steering Committee, while accepting that much of the material on ecumenical cases should be reserved for the Code of Practice, recognised that it was right for the draft legislation itself to make some further provision for such cases. The Steering Committee therefore prepared amendments to clauses 46, 48 and 49 (renumbered 47, 49 and 50) for that purpose. The main features of the amendments are set out in items 157 to 160 below, although they also included consequential amendments.

157. In clause 46 (renumbered as 47), dealing with the mission order itself: the effect of the amendments would be to add two new subsections (5) and (8)⁶. Subsection (5) would replace the previously numbered clause 48(2)(g) and give express power for such a mission order to include provision (a “co-operation provision”) for the participation of the mission initiative in an LEP, for other ecumenical co-operation with other Churches⁷ and/ or for collaboration with any religious organisation⁸. The effect of the new subsection (8) would be to supplement the general provision on consultation in this clause in cases where it was proposed to include a co-operation provision in the order, by imposing a specific duty on the bishop to consult with the appropriate authorities of the other Churches or religious organisations involved.
158. In clause 48 (renumbered as 49), dealing with the Visitor, the amendments would insert a new sub-section (3), the effect of which would be that where a co-operation provision was in place, the bishop(s) and the Visitor would discharge all their functions under Part V after consultation with the appropriate authority of each relevant Church or religious organisation. This would be a general provision for consultation that would apply in the case of all forms of a co-operation provision.
159. Clause 49 (renumbered 50), dealing with the review of mission initiatives, would be amended by the insertion of a new sub-section (8), the effect of which would be that where there was a provision for participation in an LEP only (i.e. not where there was merely provision for other ecumenical co-operation or collaboration with a religious organisation) the mission order or supplementary instrument could provide (i.e. the provision was permissive not mandatory), with the agreement of the appropriate authority of each participating Church, for the report made by the Visitor to the bishop(s) to be made to, and the functions of the bishop(s) under that clause to be performed by, a body of persons which must include the bishop(s) and one or more representatives of the appropriate authorities of the other Churches, and which could also include other persons representing the Church of England. The new sub-section (8) would also provide that if such a body of persons was to be established then any of the functions which the Visitor was to perform under clauses 47 or 49 (renumbered 48 and 50) on behalf of the bishop(s) would be performed, instead, on behalf of that body. Subsection (3) would also be amended to give the bishop the power to direct that copies the Visitor’s report should be sent to other persons or bodies. Thus even if the new subsection (8) was not used, or was not available because there was no LEP, the bishop could arrange for copies of the Visitor’s report to go to ecumenical partners involved with the mission initiative.

⁶ Sub-clause (5)(a) also addressed the discrepancy between the legal title ‘local ecumenical projects’ (the term used throughout the Church of England (Ecumenical Relations) Measure 1988, including the enabling power in section 2(1), and throughout Canon B44) and the title that is now universally used in practice for these projects, which was ‘local ecumenical partnerships’ (“LEPs”).

⁷ Sub-clause (5)(b) could be used to provide for ecumenical co-operation with a Church other than those with which LEPs could be formed. However, the Committee noted that the term “Church” confined this to Christian Churches.

⁸ The provision for collaboration with any religious organisation (sub-clause (5)(c)) made it possible to provide for inter-faith collaboration if, and to the extent, that the bishop was satisfied that this was appropriate. It also allowed for collaboration with an Anglican organisation.

160. The Reverend John Cole stressed that so far as these amendments related to ecumenical arrangements, all that they would do was to ensure that the legal ecumenical arrangements within mission initiatives were comparable, no more no less, with existing legal arrangements under the Church of England (Ecumenical Relations) Measure 1988 and Canons B43 and B44 for legal ecumenical arrangements outside of mission initiatives. He also underlined that if these amendments were agreed then the bishop, in making a mission order, would not be required to enter into a ‘co-operation provision’ or (if the order was for participation in an LEP) to adopt the arrangements provided by the new sub-section (8) of clause 49 (renumbered 50). Mr Dudley Coates also welcomed these amendments, which he felt would be helpful. He also stressed that they would in no way impinge on ‘informal’ ecumenical consultations; rather, they would be confined to keeping the law on ecumenical relations consistent.
161. The Committee welcomed these amendments and they were proposed formally by the Steering Committee (see items 187-88, 193, 204 and 209 below).

The involvement of patrons and patronage groups in Part V

162. As a result of a submission by the Archdeacon of the Meon (the Venerable Peter Hancock), and material from the Church Pastoral Aid Society and the Intercontinental Church Society forwarded by the Bishop of Winchester with his submissions, it became clear to the Committee that a number of patrons had concerns about certain parts of the draft legislation in relation to mission initiatives. These centred on consultation and the possible future involvement of the patron in a mission initiative in the area of the benefice. Those who particularly voiced concern were the institutional patrons who were also mission agencies, but it was not confined to them. (The Reverend Debbie Flach also argued for the role of the mission agencies to be taken into account in new Church initiatives.)
163. In order to inform itself of the views of a representative spread of opinion among patrons, the Committee not only heard oral submissions from the Archdeacon of the Meon and representatives of the two bodies mentioned in item 162 above, but also invited a number of others representing patronage interests to attend meetings of the Committee and make oral submissions to it on the subject of the involvement of patrons and patronage groups in the provisions of Part V. Those who attended are listed in Appendix I. In general they were associated with the Patrons’ Consultative Group⁹, to which the Archdeacon of the Meon had referred in his proposal.
164. The Archdeacon of the Meon appreciated the importance of the principle of a ‘light touch’ and therefore was proposing only a modest amendment to clause 46(5)(b) (renumbered 47(6)(b)) to include an express reference in this subsection to registered patrons or other bodies who might have a significant role in the organisation or financing of a mission initiative, so that the bishop, before making any mission order, would have to consult such patrons or other bodies if they appeared to him to have an

⁹ An informal interest group including amongst its membership the Church Society, the Church Union, CPAS, Cost of Conscience, the English Clergy Association (which in turn has private patrons amongst its membership), Forward in Faith, the Guild of All Souls, and the Society for the Maintenance of the Faith.

interest in, or be likely to be affected by, the order. The Archdeacon stressed that his amendment was not placing a mandatory requirement on the bishop. If this was found acceptable he also proposed a consequential amendment to clause 49(1) (renumbered 50(1)), so that the Visitor would be required to consult the patrons or other body etc. (if they had been consulted before the mission order was made) on the review of a mission initiative before its expiry. The Archdeacon underlined that the involvement of patrons in the establishment of mission initiatives was a matter of resources as well as rights.

165. Mr David Healey, Communications Manager of the Intercontinental Church Society, said that private patrons wanted to see the traditional ‘triumvirate’ of bishop, patron and congregation continue at the core of parish life. Under existing legislation registered patrons were consulted on various matters as ‘interested parties’ and when pastoral reorganisation took place the rights and continuing involvement of registered patrons were defined and protected. Mr Healey said that private patrons felt that a similar approach should be applied to the authorisation of mission initiatives. Apart from achieving legislative consistency, this would also ensure that the experience and resources of patrons were not ignored. Mr Healey questioned whether the current provisions would be perceived to be fair when compared with the requirement for the bishop to obtain the consent of the pastoral committee, given that the bishop might be a member of that committee and might also be the chair or, if he was not the chair, would appoint the chair. Mr Healey was also concerned that the bishop was given too wide a discretion in deciding whom to consult and that its application might become the subject of challenge under the Human Rights Act 1998 by reference to Article 1 (right to property), as patronage was a proprietary right and that Article provided that “every natural or legal person is entitled to the peaceful enjoyment of his possessions”. He also returned to the words “appears to him or them” in clause 46(5)(b) (renumbered 47(6)(b))¹⁰ and suggested that some express reference to a test of ‘reasonableness’ ought to be inserted here, perhaps by replacing those words with the words “might be reasonably considered”.
166. The Reverend Canon John Alderman, Patronage Secretary of the Church Pastoral Aid Society, said that he wanted to see mission initiatives last and that patrons had the expertise to help achieve this. He noted that the draft Measure did not prevent the bishop from consulting with patrons, but that failure to consult the patron could still happen. He was concerned that the impact of a mission initiative could be to draw energy away from the activities and worship of the ‘established’ parochial system; the involvement and experience of patrons could be invaluable in preventing this from happening.
167. The Reverend Canon John Moore, a Council member of the Intercontinental Church Society, reminded the Committee of the large reservoir of goodwill amongst private patrons that could be wasted if they did not feel that they were being consulted on, and involved in, mission initiatives operating in their parishes. He was simply asking that patrons must be informed of proposed mission initiatives and be asked what

¹⁰ In response to a query raised by Mr Healey and Canon Moore, Standing Counsel confirmed that in this sub-clause the words “or them” and “or they” referred to the preceding words “or bishops” and not to the words “any person or group of persons”.

contribution they could make. The only way to ensure that this happened was to provide for it in the draft Measure; leaving it to the Code simply would not be sufficient. Canon Moore stressed that patrons (and PCCs) were unique amongst all the potential bodies or persons that the bishop could consult on possible future mission orders as they had legal rights and responsibilities in relation to the parish(es) concerned. It was true that the draft Measure did not exclude these bodies, but then again it did not expressly include them either, so there was a possibility, although no more than that, that they would not be consulted as things stood.

168. The Very Reverend Nicholas Coulton, representing the Association of English Cathedrals, spoke on behalf of those cathedral chapters and collegiate bodies that exercised patronage. There was a diversity of interests to be consulted when mission orders were being contemplated but the interest of the patron was special. Patronage was property, therefore patrons should have the same legal rights and protections here as in any other instance where property rights were affected.
169. The Reverend Jeremy Caddick, Dean of Emmanuel College, Cambridge, saw patronage as a mechanism for an outside body or person to be involved with a parish, offering encouragement and sometimes financial support, and he was sure that this would continue to be the case in the context of a mission initiative. However, he considered that Part V of the draft Measure as it currently stood ‘marginalised’ the patrons, which was not good.
170. The Reverend John Masding, Chairman of the English Clergy Association, made a number of specific points outlining how he envisaged that ‘colleges’ of ‘retired’ clergy (i.e. clergy with permission to officiate, ‘house-for-duty’ etc.) might be established as consensual groupings from which appointments to vacant benefices with no priest-in-charge could be made (by the bishop and the patron(s) jointly with the consent of the PCC(s)). These ‘colleges’ could, if established by law, constitute bodies that could thereby request the bishop to make a mission order. Mr Masding also speculated that a group of congregations and clergy who used the Book of Common Prayer could request the bishop to make a mission order to expand the use of the BCP to neighbouring parishes.
171. Mr David Morgan of the Guild of All Souls and the Chelmsford Diocesan Board of Patronage, was of the opinion that in all but the most exceptional cases, the diocesan pastoral committee would in practice give its consent to a proposal by the bishop for a mission order. Therefore proper consultation beforehand was essential; it was not sufficient to have this spelt out in the Code alone. A church plant would affect a benefice, and patrons might be asked to provide financial assistance, so they should be given an express right to be consulted. Mr Morgan asked for the same right to be given here to patrons as was given to them and other ‘interested parties’ under section 3 of the 1983 Measure when proposals for pastoral re-organisation were under consideration.
172. The Steering Committee started from the position that nothing in the draft Measure prevented consultation with patrons taking place and where a proposed mission order would affect a particular parish the Steering Committee could not envisage a situation where a bishop would not consult with the registered patrons, as they self-

evidently had an interest, and were likely to be affected by, a mission initiative in one of their parishes. This would also apply to the PCC of the parish concerned. The need to involve patrons (and PCCs) would be fully explained in the Code of Practice. The Steering Committee saw this as the right approach to take, rather than providing an ‘illustrative list’ in the draft Measure of all the persons or bodies that the clause might encompass, an approach that was likely to elevate certain bodies over others. The Steering Committee did not see that the current proposals would in any way diminish the existing legal right of a patron to present or impinge on the involvement of patrons (financially or otherwise) in parish life. Finally, the Steering Committee saw the requirement for the bishop to obtain the pastoral committee’s consent to a mission order as analogous to many existing procedures and as unlikely to create a problem.

173. In discussion, the Reverend Simon Bessant noted that a mission initiative could involve a large number of benefices, possibly spread over a number of dioceses, and therefore it might be better, in those circumstances, to leave it to the Code of Practice to find a workable means of ensuring that patrons were involved. The Archdeacon of Lewisham and the Dean of Leicester, both speaking from practical experience, argued in favour of leaving the complexities and subtleties of these matters to the Code to deal with. Mr Steve Mitchell considered that making specific reference to patrons or others could lead to the false view that others who were not mentioned specifically were being excluded. The Worshipful Timothy Briden took the view that patrons were clearly within the ambit of clause 46(5)(b) (renumbered 47(6)(b)) – on both grounds – and, with further guidance provided in the Code to back this up, this provided assurance that consultation with patrons would happen. Mr Dudley Coates noted that there were some parallels between the role of patrons and ecumenical partners in mission initiatives as both looked for appropriate involvement. Both had resources and gifts to bring and to both consultations were important. Mr Timothy Allen was in favour of making a specific reference to consultation with patron(s) and PCC(s). Canon Linda Jones favoured some mention of patrons in the draft Measure; she took the view that this was needed for good relationships with the patrons.
174. The Steering Committee suggested a means of alleviating the concerns expressed by patrons and patronage groups. A new clause 47(6) (with subsections (a) to (c) re-ordered as agreed by the Committee in another context – see item 188 below) could duplicate the provisions of the existing clause 46(5), except that “interest” could be changed to “significant interest” and “affected” could become “significantly affected” (see item 189 below). A new clause 47(7) could provide that any person having or sharing in the cure of souls in the area of any benefice affected by the mission order and any other person, including a PCC or registered patron, who might have an interest in the cure of souls in any such area, would be deemed to have an interest under clause 47(6). In considering whether a person or body had a significant interest in or would be likely to be significantly affected by the order, the bishop would be required to have regard to the objectives of the initiatives and any other circumstances he thought relevant. Taking clauses 47(6) and (7) together, therefore, inter alia, the PCC(s) and patron(s) would be deemed to have an interest in the mission order, but the bishop would need to judge whether that interest was ‘significant’, and only if he concluded that it was would the bishop be required to consult with the PCC(s) and patron(s) concerned. (Thus the status of a patron or PCC

under this provision would not be identical to their status as an “interested party”, with a right to be consulted, under section 3 of the 1983 Measure). The final words in the new clause 47(7) were not essential; however they provided helpful clarification of the process that the bishop would need to go through in deciding on ‘significance’.

175. The Committee took the view that the interests of patrons had clearly emerged as a key issue in the Committee’s discussions and therefore, on balance, these amendments were desirable. They were therefore formally proposed by the Steering Committee - see further items 189 and 192 below).

Mission initiatives in ‘resolution A’ parishes

176. Mr Clive Scowen asked in his original written submission that clause 46(12) (renumbered 47(15)) be deleted if it meant that a women priest could not preside at Holy Communion or otherwise minister in a parish affected by a mission initiative, where that parish had passed a relevant resolution under the Priests (Ordination of Women) Measure 1993 (“the 1993 Measure”). He felt this would provide the parish with a ‘veto’ over a women’s ministry in a mission initiative and that this would be contrary to the principle that a mission initiative could operate independently of a parish.
177. The Steering Committee was firmly of the view that the renumbered clause 47(15) needed to remain in the draft Measure. In coming to this conclusion, the Steering Committee had noted that the subsection merely preserved the operation of the relevant resolutions (and in particular resolution A) under the 1993 Measure, neither more nor less; but it was essential to have a provision which did that, in order to avoid any ambiguity in the draft Measure and any possible argument that it created an exception to the 1993 Measure. It was also noted that this clause had nothing to do with the provisions of the Episcopal Ministry Act of Synod 1993 and petitions made under that Act.
178. In speaking to the Committee, Mr Clive Scowen accepted that clause 47(15) as renumbered should not simply be deleted but he took the view that matters could not be left there. It was necessary to clarify whether or not, in law, a woman priest who was ministering under the authority of a mission order could or could not preside at or celebrate the Holy Communion or pronounce the absolution in a parish that had passed resolution A under the 1993 Measure. Mr Scowen repeated his view that if the answer to that question was that a women priest in those circumstances could not preside etc. then that could not be right in the interests of mission and was contrary to the wholly new context of the renumbered clause 47(11) (providing for the mission initiative to operate independently of the minister with the cure of souls).
179. The Archdeacon of Colchester expressed some concern that the scenario described could disable a mission initiative. Other members of the Committee also expressed concern that in the absence of advice on the legal position under the 1993 Measure, clause 47(15) as renumbered could give rise to misunderstanding and confusion. The Committee noted that it was not part of its remit to provide an authoritative interpretation of other legislation, such as the 1993 Measure and, on the analysis put forward by the Steering Committee, it was not necessary for the Committee to do so

in order to reach a decision on the renumbered clause 47(15). However, in order to address its concerns, the Committee asked Mr Stephen Slack, the Chief Legal Adviser, Sir Anthony Hammond QC, Standing Counsel, and Miss Ingrid Slaughter, Legal Adviser to the Committee, to produce an agreed opinion on the legal position of women priests in mission initiatives operating in parishes where resolution A was in force.

180. Mr Dudley Coates asked whether the passing of resolution A by a PCC could prevent a woman minister of another Church conducting a non-Anglican service of Holy Communion, or pronouncing the absolution in the course of a non-Anglican rite, in that parish, including any such rite taking place in the context of an LEP. The Committee was advised that the provisions regarding resolution A in the 1993 Measure had no application in relation to the ministry of a non-Anglican woman minister conducting a service of Holy Communion, or any other service, according to a non-Anglican rite in the parish, but the Committee agreed that Mr Slack, Sir Anthony Hammond and Miss Slaughter should be asked to give their opinion on this matter at the same time as that set out in item 179 above.
181. The full text of the opinion is provided in Appendix V.
182. First, dealing solely with Anglican ministers, the authors of the opinion were of the view that the words of resolution A, taken alone, were ambiguous as to whether any and every service of Holy Communion within the geographical area of the parish at which a woman presided or which a women celebrated, and any and every instance where a woman pronounced the Absolution within that geographical area, amounted to a contravention of the resolution. However, they considered that the better view, taking the 1993 Measure as a whole, was that resolution A was not intended to extend beyond the ambit of the PCC's control and specific responsibilities to areas (whether geographical or otherwise) which were not the concern of the PCC.
183. The opinion went on to give detailed reasons for this view, and to discuss the position under sections 1 and 2 of the Extra-Parochial Ministry Measure 1967. The authors' conclusion was that where a PCC has passed resolution A, it would not extend to a woman priest who was exercising her ministry within the geographical area of the parish but for the purpose of, or in connection with, a mission initiative endorsed by a bishop's mission order, and who held no parochial appointment, unless she was conducting worship in the parish church or some other parochial place of worship for which the PCC was responsible (for example by virtue of a provision included in the order under renumbered clause 47(14) of the draft Measure).
184. Finally, as to the question of non-Anglican ministers, the authors of the opinion were in no doubt that resolution A did not affect a woman minister of a Church other than the Church of England conducting worship according to rites other than those of the Church of England. The opinion did not attempt to set out exhaustively all the provisions in the 1993 Measure itself that made this clear, however it did point out that such a woman minister would not fall within the scope of section 5(b) of the 1993 Measure and that there would be no obvious way of seeking to enforce the 1993 Measure against her or her Church.

185. The Worshipful Timothy Briden confirmed his agreement with the opinion. The Committee welcomed this opinion and was satisfied that it sufficiently clarified the existing legal position under the 1993 Measure, as requested by the Committee. The Committee was therefore agreed that all that was needed so far as the provisions of the draft Measure were concerned was for the renumbered clause 47(15) to be retained (unamended), so as to confirm that no exception to the 1993 Measure was being created by the renumbered clause 46 of the draft Measure.

Clause 46 (renumbered 47) – Mission initiatives

Subsection (1)

186. The Reverend Andrew Watson was concerned about who could and should initiate a mission initiative. He proposed a change of wording to subsection (1) that in his view would make clear the existence of a true ‘mixed economy’ in terms of who would initiate a mission initiative (as between a person or group of persons who wished to carry on the initiative, any other person or body exercising ecclesiastical functions, and the bishop). It seemed to him that the current wording laid down as the ‘norm’ that a person or group of persons who wished to carry on an initiative would initiate the proposal for a bishop’s mission order and he regretted that. The Steering Committee did not consider that any amendment was necessary. In a case where the mission order was made under subsection (1)(b) because the bishop considered it would be appropriate to make one, there was no restriction on whom the original initiative had to come from, so it was already equally open to any person or group of persons to put forward proposals to the bishop. The Committee concurred, and did not accept the proposal.

New subsection (5)

187. The Steering Committee proposed an amendment to insert a new subsection (5) (see item 157 above) (and a consequential amendment to omit the previously numbered clause 48(2)(g)) and the Committee agreed that these amendments should be made.

Subsection (5) (renumbered (6))

188. The Steering Committee proposed amendments to clause 46(5) (renumbered 47(6)) to reverse the order of subsections (a), (b) and (c), so that consultations (with other Churches etc., followed by any person or group of persons etc.) would come before obtaining the consent of the pastoral committee. The Committee agreed that the proposed order of consultation before consent was a more logical one and agreed that this amendment should be made.
189. The Steering Committee proposed amendments to clause 46(5)(b) (renumbered 47(6)(b)) to insert word “significant” before the word “interest” and to insert the word “significantly” before the word “affected” (see item 174 above). The Steering Committee considered this more accurately reflected the situation in practice and the decision the bishop was called on to make. The Committee agreed to these amendments being made.

190. Mr Andrew Presland proposed that the bishop should merely be required to consult the diocesan pastoral committee before making any mission order, rather than obtaining its consent as was currently required. Mr Presland was concerned that it might take some time for mission considerations to have a significant impact on the thinking of pastoral committees and that in the meantime they would have an effective ‘veto’ on mission initiatives, which would not necessarily be exercised on the basis of mission considerations. The Steering Committee believed that this subsection struck the right balance between different interests and in its view Mr Presland’s proposal would upset that balance unnecessarily. The Steering Committee considered the role of the diocesan pastoral committee in the process, in the light of its functions under clause 52 (renumbered 53) of the draft Measure, was an essential one, for example in setting the proposal in the context of wider strategies for a diocese or part of a diocese. The general duty under clause 1 would apply to it, and the Reverend Simon Bessant added that he hoped and expected that pastoral committees would give due regard to mission. The Committee concurred with the Steering Committee. Given the central role of the bishop, it also concurred with the Steering Committee in rejecting Mr Presland’s proposal that if subsection (5) (renumbered (6)) was not amended the order should be renamed a “diocesan mission order”.
191. Mr Clive Scowen was concerned that the subsection (5)(a) (renumbered (6)(c)) appeared to give the diocesan pastoral committee an unfettered discretion over whether or not to consent to a bishop’s mission order. He felt that the grounds on which consent could be denied should be restricted to those directly related to mission and that this should be set out in the clause. Another option could be to provide that consent was not to be unreasonably withheld. Mr Scowen provided a draft subsection to make it clear that mission must be the ‘touchstone’ of the pastoral committee’s exercise of its power. Alternatively, he, like Mr Presland, proposed (this not being in his original submission) that the pastoral committee should merely be consulted. The Steering Committee did not agree that it was necessary or desirable to make any amendments to this subsection along the lines suggested by Mr Scowen. Mission would be a factor in the pastoral committee’s consideration (as outlined above) but it would be wrong to cut across the other factors to which it had to have regard and its other duties by requiring it to decide on mission orders solely on narrowly viewed mission criteria. The Committee concurred.

New subsection (7)

192. The Steering Committee proposed an amendment to insert a new subsection (7) (see item 174 above) and the Committee agreed that this amendment should be made.

New subsection (8)

193. The Steering Committee proposed an amendment to insert a new subsection (8) (see item 157 above) (and a consequential amendment to subsection (6) (renumbered (9))) and the Committee agreed that these amendments should be made.

Subsection (8) (renumbered (11))

194. This subsection provides that the bishop must consult with certain clergy before he includes provisions in a mission order authorising a minister to exercise his or her ministry in any place for the purposes of or in connection with a mission initiative in a specified manner and, if he or she is not a minister who has the cure of souls in that place, without obtaining the permission of the minister with that cure of souls. Mrs Shirley-Ann Williams and Mrs Mary Johnston had proposed the involvement of the laity in this consultation process, as the laity would be affected as well.
195. It appeared to the Steering Committee that these submissions were based on a misconception as to why the subsection was needed. It was addressing the exercise of ministry in a parish without the consent of the person with the cure of souls (which would otherwise be required under Canon C8) and the persons or bodies who should be consulted on behalf of those with the cure of souls in cases where it was not appropriate or practicable to consult all the individual incumbents or priests-in-charge of the parishes to be covered by a mission initiative. This subsection was therefore rightly confined to consultation with the clergy (and was to be contrasted with the general provision as to consultation in subsection (6) (as renumbered)). The Committee concurred. The Committee did however agree that the Code of Practice would need to provide guidance on how to keep the laity informed during a consultation undertaken under this subsection or subsection (6) (as renumbered).

Subsection (9) (renumbered (12))

196. This subsection dealt with how any alms collected in the course of, or in connection with, an office or service performed in accordance with a mission order were to be disposed of. Canon Linda Jones asked whether in these circumstances it would be possible for gift aid to be used to re-claim any tax paid on the alms by a taxpayer (as in the normal parochial context), as she understood that problems were already arising where the body responsible for the service was not a registered charity. The Committee was advised that this subsection was merely intended to ensure that the alms were not under the control of the incumbent. However, under the provisions of renumbered clause 49(2)(d), the mission order or supplementary instrument could make provision for the mission initiative to be set up as a charitable body and registered in the normal way.

Subsection (12) (renumbered (15))

197. The Committee agreed that this subsection should stand unamended (see item 185 above) and did not accept the proposals for amendment relating to it.
198. The Committee agreed that clause 46 (renumbered 47) (as amended) should stand part of the Measure.

Clause 47 (renumbered 48) - Visitors

199. Mrs Viviane Hall had suggested that the title of “Visitor” in this clause (for the person designated in the mission order to, inter alia, oversee, review and report on

the mission initiative) was a confusing one, as the title of Bishop’s Visitor already existed (under the arrangements to deal with pastoral care and practical provision in cases of the breakdown of clergy marriages). The Steering Committee considered the title “Visitor” to be the appropriate term here. This title was already used in a number of other areas of Church life other than clergy marriage breakdown (e.g. inspection of theological colleges) without causing confusion. The Committee concurred, and did not accept the proposal.

200. The Committee agreed that clause 47 (renumbered 48) should stand part of the Measure.

Clause 48 (renumbered 49) – Supplementary Provisions

201. The Reverend Paul Benfield was concerned that subsection (2)(f) could affect the freehold status of a person with the cure of souls without that person having an opportunity to object. For example, he thought the mission order or supplementary instrument might require the incumbent to meet with those involved with the mission initiative. The Steering Committee was clear that Mr Benfield’s concerns in this regard were unfounded, as nothing in the draft Measure eroded the incumbent’s freehold. The Committee concurred.
202. Mr Clive Scowen had proposed an amendment to the renumbered subsection (2)(g) (see item 187 above) to substitute the word “subsection (4)” for the words “subsection (3)”. Standing Counsel confirmed that this cross-reference needed to be corrected and the Committee agreed that this amendment should be made.
203. The renumbered subsection (2)(g) provides that the bishop, after consulting the Visitor and any others that he thinks fit, may provide in the mission order or the supplementary instrument for representation by persons to whom a mission order relates on such deanery synod as he thinks fit, in accordance with a scheme made by the diocesan synod of the diocese. Mr Peter Smith had proposed that if a lay person was to be appointed under this provision then he or she must be a confirmed communicant member of the Church of England, even if he or she did not otherwise qualify for election under Church Representation Rule 10(1). The Steering Committee noted that in order to qualify for election to a deanery synod at present it was not essential to be confirmed (as a result of the definition of ‘actual communicant’ in Church Representation Rule 54(1) with reference to Canon B15A, paragraph 1(b)). It was unclear to the Steering Committee whether Mr Smith wished to make it a requirement that all lay people elected to a deanery synod should be confirmed or that this should be a requirement in the specific circumstances of this subsection. If it was the first, then the Steering Committee was clear that this draft Measure was not the appropriate vehicle to achieve such a change in the law; if it was the second, then the Steering Committee was agreed that it would be anomalous to make this a requirement in these particular circumstances only. The Steering Committee therefore recommended that the proposal be rejected, and the Committee concurred.

204. The Steering Committee proposed an amendment to substitute a new subsection (3) (see item 158 above) (and a consequential amendment to renumbered subsection (5)) and the Committee agreed that these amendments should be made.
205. Mr Clive Scowen spoke to his proposed amendment to subsection (9). He proposed that the leader's or leaders' signature should be required for varying a mission order or supplementary instrument, just as it was needed to establish either of these. He noted that such variations could be substantial, thereby imposing a radically altered mission initiative on the leader or leaders against their will. Mr Scowen recognised that his amendment might be criticised on the grounds of giving a leader an effective 'veto' on any variations in an order or instrument. However, his answer to that was that his proposal did nothing to impair the bishop's power to revoke an order or instrument and start again with a new order or instrument. The Steering Committee resisted this amendment, and pointed out that the Code of Practice would emphasise the importance of co-operation when any variation was envisaged. It was anticipated that if major variations were envisaged then indeed to have a new order or instrument might be the best option. However, if Mr Scowen's amendment were carried, then this would give a leader or leaders an effective 'veto' on even minor changes, for which the preparation of a new order or instrument, although possible, would be disproportionate. The Committee concurred and did not accept the proposal.
206. The Committee agreed that clause 48 (renumbered 49) (as amended) should stand part of the Measure.

Clause 49 (renumbered 50) – Review of duration of mission initiatives and further provisions

207. The Steering Committee proposed an amendment to subsection (3) (see item 159 above) and the Committee agreed that this amendment should be made.
208. Mr Clive Scowen had suggested that the drafting of subsection (7) had made it difficult to follow and arguably ambiguous. Standing Counsel had agreed to improve the drafting, and the Steering Committee proposed an amendment to substitute a re-drafted subsection (7). Mr Scowen confirmed that this proposed amendment addressed all his concerns. The Committee agreed that this amendment should be made.
209. The Steering Committee proposed an amendment to insert a new subsection (8) (see item 159 above) and the Committee agreed that this amendment should be made.
210. The Committee agreed that clause 49 (renumbered 50) (as amended) should stand part of the Measure.

Clause 50 (renumbered 51) – Code of Practice

211. The Steering Committee noted Mr Andrew Presland's comments on the "imaginative use of existing legislation" in the Code. However, the Steering Committee was agreed that these comments did not call for any amendment of the draft Measure. The Committee concurred. Mr Frank Knaggs said that he hoped that the Code would

clearly set out the basic principles of mission that were to guide mission initiatives of the Church of England.

212. The Committee agreed that clause 50 (renumbered 51) should stand part of the Measure.
213. A joint sub-committee of the Committee and the Steering Committee has provided a draft outline, on a preliminary and provisional basis, of the Code of Practice covering Part V, which is being circulated (as GS 1597V) with this report and the other papers for the Revision Stage of the draft legislation. It has been agreed by correspondence with the Committee and the Steering Committee but is provided for information only, to show what kind of material the Committee and the Steering Committee at present envisage will form part of the Code. The final Code will be drawn up on behalf of, and agreed and issued by the House of Bishops, subject to the approval by the Synod; work on the Code will continue after the Revision Stage, and if any Synod members have suggestions they wish to contribute they are invited to send these to Andrea Mulkeen at Pastoral Division, Church Commissioners (see paragraph 4 of Appendix IV below).

Part VI – Pastoral and Churches Uses Functions

Clause 51 (renumbered 52) – Appointment of pastoral committees

214. The Archdeacon of Hereford and Mr Clive Scowen had both called for the diocesan pastoral committee to be renamed. The Archdeacon proposed ‘pastoral and mission committee’. In addressing the Committee Mr Scowen referred to his proposal that the pastoral committee should be renamed the ‘mission committee’ or the ‘mission and pastoral committee’. He saw the first as symbolically the most powerful but recognised that this could be open to objection in that it would not reflect the committee’s on-going pastoral functions, in which case both words would need to be in the title, but it was important that ‘mission’ came first. He now proposed ‘mission and pastoral committee’. Mr Scowen emphasised that a change of name was needed if the new committees were to perceive that they had new functions and that the committee’s name could affect who might be willing to be appointed to it (or stand for election to it).
215. The Steering Committee saw no need for a change of name, as the functions of these committees would remain predominantly ‘pastoral’. The Bishop of Exeter noted, however, that while subsection (2) provided that the committee would be known, in the new Measure and in other enactments, as the pastoral committee, the same provision laid down that it “may be called by such name as the diocesan synod may decide”. Thus a diocesan synod had the freedom to decide to call it by another name, such as those suggested by the Archdeacon of Hereford or Mr Scowen. Mr Timothy Allen considered that the name, in law, of this committee should be changed so as more properly to reflect its changed statutory functions. He argued that the provision in subsection (2) to allow a diocese to call the committee by another name weakened the argument against this. He proposed as an amendment that the Archdeacon of Hereford’s suggested name of ‘pastoral and mission committee’ should be adopted. The Committee rejected this amendment, voting two in favour with five against.

216. The Committee agreed that clause 51 should stand part of the Measure.

Clause 52 (renumbered 53) – Functions of pastoral committees

217. Mr Frank Knaggs had questioned how subsections (2)(a) and (d) would work – these imposed a requirement on the pastoral committee, in carrying out any of its functions, inter alia, to have regard to (a) the financial implications for the diocese and the Church of England as a whole and (d) any other aspects of the policies of the diocesan synod to which that synod had requested the committee to have regard. Mr Knaggs thought that, on the face of it, this could allow the pastoral committee to commit the diocese to expenditure without the explicit approval of the diocesan synod. The Steering Committee could not identify any problem here. It was expected that the pastoral committee would work within the financial (or any other) parameters set by the diocesan synod. It was also to be noted that the provision on consultation in subsection (4) would cover the pastoral committee consulting with the diocesan synod (or any other person or body), if a problem did arise. The Committee was content.
218. The Reverend Paul Benfield was concerned that subsection (3)(d), which would place a duty on the pastoral committee to “exercise oversight of matters relating to church buildings in the diocese and their use, other than matters which are the responsibility of the consistory court and the Diocesan Advisory Committee;” ignored the responsibilities of incumbent, churchwarden and PCCs and could be seen as an attempt to obtain diocesan control over parish assets. The Steering Committee explained that this subsection was dealing solely with the duties placed on the pastoral committee. It did not in any way affect the legal duties placed on others in respect of church buildings and their use and therefore there was no need for them to be mentioned here. In relation to Mr Benfield’s second concern, the Steering Committee was also clear that no power of control was being given to the pastoral committee, only a duty to “exercise oversight”; nevertheless, the Committee accepted that a different form of words might convey this better. The Steering Committee therefore proposed an amendment to subsection (3)(d) to substitute the words “maintain an overview” for the words “exercise oversight”. The Committee agreed to this amendment being made.
219. In her proposal on subsection (3)(d), the Right Worshipful Sheila Cameron QC, the Dean of the Arches and Auditor, had suggested that the word “responsibility” in this subsection was too general and had proposed using “within the jurisdiction” of the consistory court and “within the functions of” the Diocesan Advisory Committee instead. She explained that these expressions were or should be well-known and were the exact words that were used in this context in the Care of Churches and Ecclesiastical Jurisdiction Measure 1991. Her amendments were aimed at creating greater clarity. The Steering Committee supported these proposals. The Committee agreed to these amendments being made.
220. An amendment was made to subsection (3)(e) (see footnote 4 to item 90 above).
221. The Committee agreed that clause 52 (renumbered 53) (as amended) should stand part of the Measure.

Part VII – Other Provisions

Proposed new provisions

NSM as incumbent

222. The Reverend Canon Hugh Atherstone had asked that the law be changed so that “without suspension of presentation, yet after due consideration with relevant parties, the bishop may declare that an NSM is to be appointed as incumbent, with the patron nevertheless being involved in the appointment”. Mr Clive Scowen had noted that “the received learning at present is that NSMs cannot be appointed incumbent” and he had suggested that the opportunity ought to be taken in this draft Measure to allow an incumbent to renounce all benefice income and augmentation during an incumbency.
223. The Committee was advised that there was no impediment in the current law to an NSM holding office as an incumbent. The last possible impediment to this, the requirement to receive a guaranteed annuity (if one was payable in relation to a benefice), had been removed by the Stipends (Cessation of Special Payments) Measure 2005. This had been the substance of a recent Opinion of the Legal Advisory Commission (“the LAC”)¹¹, which had formed the basis of an answer to a question put to the Chair of the LAC at the February 2006 Synod. Since then Canon Atherstone had indicated that he was minded to withdraw his proposal for amendment, although he had raised the further question of whether a patron could insist on the appointment of a stipendiary incumbent if the bishop had decided on an NSM? The Steering Committee thought that this was not possible, as payment of the stipend was a wholly separate matter from appointment to the benefice; it fell within the Diocesan Stipends Funds Measure 1953, and was a matter for the diocese. It was also noted that under section 11 of the Patronage (Benefices) Measure 1986 a statement is prepared by the PCC for the registered patron and, if the bishop himself is not the patron, for the bishop as part of the process for filling a vacancy. One of the areas that this statement would cover would be “the conditions, needs and traditions of the parish” (in which a desire for an NSM as incumbent could be stated and explained). Therefore, in addition to the issues over stipend already referred to, it seemed to the Steering Committee that it would not be reasonable for a patron to ‘insist’ on appointing a stipendiary incumbent if such a desire was not expressed by the parish.
224. For his part Mr Scowen welcomed the Opinion of the LAC although he was of the view that it was “not entirely unequivocal” on whether an NSM could hold office as an incumbent, even after the abolition of guaranteed annuities. Therefore as the opinion of the LAC was only an opinion, the opportunity should in his view still be taken in the present draft Measure to put the matter beyond doubt by explicitly providing in law that an NSM could hold office as an incumbent.

¹¹ A revised version is published later this year in the new edition of the Legal Advisory Commission’s publication *Legal Opinions concerning the Church of England*.

225. The Steering Committee remained of the view that there was no impediment in the current law to an NSM holding office as an incumbent and was satisfied that legal position on this was clear. Therefore it was proposing no amendments. The Committee was also content and did not accept the proposal.

Operation of teams and groups

226. Mr Clive Scowen spoke to his submission in which he agreed with recommendation 20 of the Review Group in *A Measure for Measures* and asked that it should be implemented¹². Mr Scowen was concerned that what he saw as the ‘heavy mechanism’ presently applying to the operation of teams and groups was discouraging collaborative forms of ministry. He wanted maximum discretion for local decision and innovation. He cited sections 20(10) and (10A) of the 1983 Measure as examples of provisions which did not facilitate collaborative working¹³. Mr Scowen also saw as unhelpful the effect of section 20(15) of the 1983 Measure which dealt with the meaning of the term “specified term of years” in certain sub-sections of section 20 of the 1983 Measure and provided that if no term of years was specified for the team ministry in question by a pastoral scheme or order, then seven years was to be deemed to be the specified term of years in relation to that team ministry. He would wish all of these provisions to be repealed.
227. The Committee noted the view expressed by the Follow-Up Group, which had examined the specific provisions regarding team meetings mentioned by Mr Scowen¹⁴. In terms of section 20(10A) in particular, the Committee noted that the Follow-Up Group had concluded that there could be occasions when such a provision would be necessary to deal with a possible breakdown of relations within a team ministry and to help ensure that the team continued to meet and discuss matters even in those circumstances.
228. On that particular point Mr Scowen argued that breakdown in team ministries could not be averted or repaired through legislation. However, the Bishop of Bradford disagreed with the proposition that the provision was unnecessary or undesirable, as he considered that a team ministry could not function effectively unless the team members met and discussed matters, and that the legislation should maintain the expectation that this would happen and facilitate it in practice where necessary.
229. As regards section 20(15), the Committee noted that the concept of the “specified term of years” related to the tenure of office of the team rector, team vicars and certain deacons in team ministries. It was introduced as part of the changes made to

¹² This recommendation had been that “as a general principle, provision in the new Measure for the operation of teams and groups should be confined to dealing with the responsibilities of team members, patronage and property” (page 37).

¹³ These sections required the team rector to convene regular meetings of the team “for the purpose of discussing and reaching a common mind on matters of general interest or special concern to the team ministry”, but also gave any member of the team power to request the rector to convene a team meeting and, if the team rector failed to do so, to convene a team meeting him or herself.

¹⁴ It had “examined the existing provisions which fell outside this formula, [recommendation 20 of *A Measure for Measure*] and had decided that a good case had been made out for retaining each of them” (GS 1597-99X, paragraph 27, first bullet point).

section 20 of the 1983 Measure by the Team and Group Ministries Measure 1995, one of whose main objectives was to ensure parity between the members of the team chapter. It provided for all of them (subject to transitional provisions) to hold office for the same term of years, and it therefore had to provide for a default term for cases where the common term was not laid down by a pastoral scheme or order.

230. The Committee agreed that no amendments should be made in response to this submission.

Interim provisions for the representation of the laity

231. Mr Clive Scowen spoke to his submission that the implementation of recommendation 21 of *A Measure for Measures* should be reconsidered. He felt that the reasons given by the Follow-Up Group for rejecting this recommendation were “far from clear or convincing”. This recommendation related to provisions on team ministries which were among a number of similar provisions in the 1983 Measure allowing schemes to provide for, or to authorise the bishop by instrument to establish, arrangements to the same effect as could be made under the Church Representation Rules (for example for district church councils, joint PCCs or team or group councils). The intention of the 1983 Measure was that none of these arrangements could continue for more than five years (after which, if they were to continue, new provision would have to be made under the Church Representation Rules). Recommendation 21 had been that “interim provisions for representation of the laity in team ministries should be retained and where applied should continue automatically unless formally rescinded or replaced” (page 37). Paragraph 3.45 of *A Measure for Measures* had explained that the Review Group had reached this decision as “in practice the end of the five year period for such arrangements is often overlooked, particularly if they have worked well ...”. The Follow-Up Group had concluded that this recommendation should not be followed as it “could create an anomaly when viewed alongside ... non-team parishes” (GS 1597-99X, paragraph 27, second bullet point).
232. The Committee noted a further aspect of the Follow-Up Group’s thinking on this. The Follow-Up Group had agreed with the Review Group that the provisions in paragraph 4 of Schedule 3 to the 1983 Measure for allowing such arrangements to be put in place for an initial ‘interim period’ in relation to new team ministries should be retained, in particular so as to encourage possibly reluctant parishes to accept them on a ‘trial basis’. However, the Follow-Up Group had been concerned that recommendation 21, involving as it would the loss, in the case of new team ministries, of the requirement that the arrangements could only continue at the end of the ‘trial period’ if they were reconsidered and put on a new basis, might cancel out this incentive. This was because they might create the impression, however mistaken, in possibly reluctant parishes that they were entering into an arrangement that could not or would not be revoked.
233. The Committee also noted that the provisions in question were part of the series of provisions in Schedule 3 to the 1983 Measure, which also applied to new group ministries and new parishes, the joining of two or more parishes into a single benefice and pluralities. As noted at item 231 above, the five-year maximum period applied in

all cases, and the Follow-Up Group's thinking had been that it would not seem logical to create an exception from this general principle in the absence of any reason for thinking that there were particular grounds for doing so in the case of a team ministry. Indeed, as recently as the Church of England (Miscellaneous Provisions) Measure 2005, the General Synod had amended these provisions (apart from an amendment to paragraph 12(2) of Schedule 3, which had apparently been omitted from this Measure as a result of an oversight – item 294 below refers) to strengthen the requirement for the 'interim arrangements' made by or under the pastoral scheme to cease after a maximum of five years.

234. Mr Scowen continued to believe that if an arrangement was working well it should be allowed to run on; this was consistent with a 'light touch', and if its implementation would create an anomaly with non-team parishes then that anomaly should be addressed at the same time by changing the legislation on them also.
235. The Committee agreed that no amendments should be made in response to this submission.

Priests-in-charge

236. Mr Frank Knaggs drew attention to concerns expressed about the process of appointment of priests-in-charge. He asked that "legislation should provide that, apart from exceptional circumstances, parishes and patrons should have rights in the appointment of a priest-in-charge". He felt that during a suspension period it was "...wrong that the rights of all, apart from the bishop, are discarded". He urged that this problem should be addressed in the present legislation.
237. The Committee agreed that no action needed to be taken in respect of Mr Knaggs' proposal. In doing so it noted that section 68(3) of the 1983 Measure already provided that where a bishop proposed to appoint a priest-in-charge to a benefice to which a suspension period applied, he must first consult the PCC(s) and, so far as was reasonably practicable, the registered patron of the benefice. The Bishops of Exeter and Bradford confirmed that, in practice, the procedures that they adopted for appointing a priest-in-charge were, as far as possible, parallel to those they adopted for appointing an incumbent. To their knowledge, other bishops did the same.

Patronage

238. In relation to Mrs Gill Morrison's submission on the rights of patrons in relation to the issue of the freehold, the Committee took the view that this appeared to be directed primarily to the work of the clergy terms of service legislative drafting group. Mrs Morrison had also submitted that if contact with a patron could not be made then this caused delay and often frustration. She considered that there should be a more pro-active approach to avoid this. The Committee took the view that no action was needed here, as the Patronage (Benefices) Measure 1986, taken together with the 1983 Measure, already addressed Mrs Morrison's concerns. Section 1 of the 1986 Measure provided for a register of patrons and, so far as the appointment of a new incumbent was concerned, section 14 made provision for the bishop to take over the registered patron's function of choosing the new incumbent if the registered

patron failed make a declaration of membership within the time-scale specified by the Measure.

Clause 53 (renumbered 54) – Church Buildings Council

239. Prior to hearing oral submissions on the provisions of renumbered clause 54 and Schedule 4, the Committee had received and noted a ‘working draft’ of proposed amendments to Schedule 4 that had been prepared by the Steering Committee to meet concerns expressed in the written submissions. These would establish a permanent sub-committee of the Council for the Care of Churches (to be renamed the Church Buildings Council) (“the Council”)¹⁵ called the ‘Special Advisory Committee’ (“the SAC”) which, if established, would discharge, on behalf of the whole Council, the advisory functions previously discharged by the Advisory Board for Redundant Churches (“the Board”) (see items 348 to 350 below). These proposed amendments had been circulated to all those attending to speak to proposals on renumbered clause 54 and Schedule 4 prior to these items being discussed. At the same time the proposals had also been circulated to the Prime Minister’s Appointments Secretary and DCMS, both of whom had replied; the former “[could not] see any particular problems or difficulties” and the latter made no comment on the proposals other than to welcome the amendment to provide for the Secretary of State to nominate four members of the Council (instead of their being appointed merely after consultation with the Secretary of State) (see item 348 below).
240. In addressing the Committee, Mr David Baker, who appeared with the Bishop of Dunwich and Dr Jeffery West to represent the Advisory Board for Redundant Churches, said that the Board was grateful for this opportunity to expand on its written submission opposing its abolition and the transfer of its functions to the Council. He said that one point that had emerged clearly from the Review Group under Professor Toyne was that the day-to-day role of the Board was not generally understood. He drew attention to the account of its work in its 2004 Annual Report, which made clear how the Board’s role had developed and was continuing to develop. He referred in particular to three of the Board’s principal defining characteristics: (a) it acted as a regulatory adviser – formally to the Commissioners and the CCT and informally to secular authorities; (b) it was independent – appointed by the Archbishops after consultation with the Prime Minister; and (c) it was expert – not only on heritage merits of churches but also in management of change after closure. Over the past five years a common thread in the Board’s work had been improved communication with secular partners – something that was very important, as a church was a unique kind of building, and if it was closed for worship its value as a economic and cultural asset had to be realised cost-effectively and appropriately. The Board played a key role in resolving problems in this area by using its heritage management tools as a basis for the necessary dialogue between the Church and non-Church partners. This was working well, so the Board was asking, why change? The Board believed that the Toyne Review Group had failed to ask the right questions

¹⁵ The decision to change the name of the new statutory body to be established by the draft Measure to replace the existing Council for the Care of Churches was taken at a later stage in the Committee’s work (see item 262 below). The term “Council” has been retained throughout this report to refer to both the existing Council for the Care of Churches and the new Church Buildings Council.

and had thus produced the wrong answers. It had apparently failed to understand both the need for regulatory advice and, following established secular arrangements, the need to keep distinct the three roles of the Church in relation to its churches: as user (for religious activities), curator (as historic assets) and developer (as redundant buildings).

241. Mr Baker sketched out the four main tasks of the Board:

- (a) Definitive advice: this depended on effective information management so that advice given was timely, accurate and appropriate. When the possibility of closure first arises, pastoral and financial issues were usually determinative, and heritage merit needed to be identified in outline for proper and fuller consideration later. The time for detailed and definitive information was when the Commissioners were considering the future of a church, which was when the Board, using its Critical Information Summaries, evaluated the significance of three elements: church, churchyard and contents, and gave other important management information on site and planning policy frameworks. The Board advised only on heritage merit, and not on the pastoral and financial considerations that the Commissioners also had to take into account, yet the Commissioners' final decision followed the Board's advice in over 90% of cases.
- (b) Assessing capacity of closed church for alternative use: without damage to its heritage merit. The Board provided a schedule of recommendations on possible options, opportunities and constraints, following on from (a). This was a key starting point in consultations with national bodies and local planning authorities. It was crucial that this advice was, and was seen to be, independent of the Church as 'owner-developer', as this would have a direct bearing on any sale price. The transfer of the Board's functions to the Council could create potential conflicts of interest and remove a crucial plank in public confidence. The Council was not an independent body, but was a Church body, with a prime statutory duty to have regard to the mission of the Church; mission needed resources and resources were gained by selling closed churches and sites, not by preserving them, which used resources.
- (c) Facilitating the passage from faculty jurisdiction to secular planning system: the Board was uniquely placed to do this as it spoke the languages of both Church and State. Churches continued to look like churches and all alternative uses must be suitable – the Board was aware that inappropriate alterations might affect the wider objectives of a mission-shaped Church. The Board was also aware that the ecclesiastical exemption has deprived the secular planning system of experience in dealing with church buildings. The Board recognised the privilege of the exemption, the responsibility to facilitate an orderly transition from Church to State controls, and the reasonable requirements of partnership between the Church and secular authorities.
- (d) Advising on proposals affecting outstanding churches vested in the CCT: the Board's advice on heritage merit was determinative in any decision to vest a church in the CCT, so that it was logical for its advice to be sought on

proposals to alter or divest any churches in the care of the CCT. This advisory role had become much more crucial in recent years, in ways not foreseen by the Toyne Review, with the CCT's new active role as developer, its welcome drive to make its churches more accessible and its more problematic search for alternative uses and divesting. The Board understood the growing tension for the CCT caused by a steady flow of new vestings and a flat-lined budget, but the CCT's own recent review based on use potential rather than heritage merit had generated some proposals that the Board has had to advise against. The Board wished to help the CCT rather than oppose it but considered that the kind of review that was appropriate was an independent one based on the criteria of the 1983 Measure. The political sensitivity of divesting should not be underestimated. Public interest expected that what went to the CCT had been "saved" for the nation. The nation had a large ongoing financial stake in the CCT and secular conservation interests would closely scrutinise proposals for alternative use and divesting. An independent Board's considered expert validation stood a better chance of acceptance than an 'advisory strand' that was clearly part of one of the two main sources funding for the CCT.

242. Mr Baker also spoke about resources. The transfer of the Board's functions to the Council would bring only a small saving. Resources were also a major issue for an already over-pressured Council. Keeping active working contacts with all DACs and their casework was a task central to the credibility of the exemption, and 'extended use' would add to the Council's existing caseloads. Adding another set of tasks to the Council through an under-funded transfer of the Board's functions to the Council would mean those functions could not be properly carried out.
243. Mr Baker made a number of points in conclusion:
- (a) The choice lay between two options – an "independent strand" within the Council or the existing arrangements. The idea of the Special Advisory Committee ("the SAC"), as proffered by the Steering Committee (see items 348 to 350 below), needed to be examined against the key operational criteria of capacity and independence. On the first, the SAC would have seven members against the Board's eleven, and those SAC members, unlike the Board's, would also have to cope with the Council's lengthy main agendas. The SAC was to have additional advisory functions, as well as those inherited from the Board, yet Mr Baker said that there was already pressure to reduce the Board's two existing officer posts to one as part of the transfer. The Board was not aware of any analysis of operational capacity needs. As far as the second criterion was concerned, the assertions of the independence of the SAC were unconvincing. All of its members were members of the Council, even though four would be nominated by the Secretary of State, and the chair of the Chair of the Council would be the non-voting chair of the SAC.
 - (b) In the final analysis the basic problem was the misplaced vision of a single source of heritage advice within the control of the Church, which prevented a proper separation of functions and interests. It was inconsistent with secular planning arrangements, as it made one Church body, rather than an independent body, the adviser of another Church body on decision-making on

matters that had a wider public interest. It also removed the guarantee of transparency that an independent Board was able to provide when advising on decisions made by Church bodies having interests (as owners or developers) in the costs arising from dealing with closed churches. The SAC was not publicly accountable, as it merely reported internally to the Council and the Secretary of State's nominations to the main Council were an expression of interest rather than a means of accountability.

- (c) It was in the best interests of the Church to have an independent regulatory adviser for its dual roles as a curator of closed churches and developer of those churches capable of accepting alternative uses. The Board offered the Church and its secular partners the best way of dealing effectively and accountably with different problems arising from the closure of historic churches. Retaining the Board would mean confidence in the Church's arrangements would be maintained; removing it would produce a high risk of serious conflicts over closing and vesting churches at a time when partnerships were being striven for as never before. What was needed was managed change on the basis of a full understanding of what was being changed.
244. The Bishop of Dunwich added that as a former archdeacon he was personally committed to the mission agenda of *A Measure for Measures*. However, as a member of the Board, he had come to appreciate the importance of its independence. Church buildings stood for more than just places of Christian worship; they had a valued place as part of the landscape and in the community, and to keep public confidence the Board had to be independent enough, and seen as such, to recognise this fact when steering a church towards an acceptable use. Mission, in turn, would then be facilitated, as mission had to take place in a public context. The amendments to create the SAC recognised the breadth of the functions that any successor to the Board would have to undertake but missed the point of maintaining independence.
245. Mr Timothy Allen, pursuing the issue of independence, asked Mr Baker what further measures he would suggest, if the Board had to be abolished, in order to ensure that independent advice continued to be given by any successor body. Mr Baker was not able to make any such suggestions; he considered that neither the arrangements in Schedule 4 to the draft Measure, nor any amended version of those arrangements, would give the degree of independence that already existed with the Board.
246. Mr Richard Halsey said that English Heritage was not dissatisfied with the work of the Board or the Council. It worked closely with both, especially at a regional level. The Board possessed great expertise in relation to the management and preservation of closed churches, a field of expertise that was different from that of the Council, which dealt with churches in use for regular public worship. The Board was respected as a bridge between the Church and local authorities. The central concern of English Heritage was the impartiality and independence of the advice given to the Commissioners. The position of the Council as part of the national Church structure, subject to the duty to "have due regard to the mission of the Church of England" (which did not include the preservation of its listed buildings) raised some concerns in that regard. English Heritage would like to be re-assured that the Council's advice would continue to be based solely on the heritage interest, as the Board's advice had

been in the past. Mr Halsey said that the proposals to create the SAC went some way to provide that re-assurance, but he sought clarification as to whether the SAC would be advising the Commissioners directly, which English Heritage would prefer, or through the full Council¹⁶. Mr Halsey emphasised that the distinction between churches in use and those closed for regular public worship was, and would increasingly become, less clear-cut as parishes sought alternative use for parts of churches that remained primarily places of regular worship (using, for example, the provisions of the Pastoral (Amendment) Measure when in force). A wider range of skills on the Council, and adequate resources to back them up, would be needed if the Council were to respond adequately to this new challenge (to that end he supported Dr Christopher Sugden’s proposal (see item 352 below)).

247. Mr Timothy Allen asked Mr Halsey whether he was satisfied that advice provided by the Council, or by the SAC on behalf of the Council, would continue to be ‘independent’. Mr Halsey replied that the duty to have due regard to the mission of the Church of England to which the Council, or the SAC under the Council, would be subject, when fulfilling its new advisory functions, was of some concern to English Heritage.
248. Dr Ian Dungavell addressed the Committee on behalf of the Joint Committee of the National Amenity Societies (“the Joint Committee”)¹⁷. Dr Dungavell said that the Joint Committee also saw the continuation of independent advice to the Commissioners (and the CCT) as the most important issue in this discussion. The Joint Committee therefore opposed the abolition of the Board, which satisfactorily provided this independent advice at present. As a body of the Church of England, the Council could not demonstrate the impartiality and independence required in giving this advice or adequately take into account the wider public interest in churches closed for public worship. Dr Dungavell quoted from a letter from DCMS, in August 2003, with which the Joint Committee agreed: “if the advisory function were to be solely the preserve of the [Council] ... it could be perceived ... that there was no longer a source of impartial, non-Church-centric advice being given on churches which could end up being supported by taxpayers’ money through vesting in the [CCT]. To lose a source of advice ... that is transparently free of pastoral and financial considerations could come to be seen as detrimental to the taxpayer.” Dr Dungavell speculated that the apparent change of view from DCMS could reflect a view that abolition of the Board could keep down the number of vestings in the CCT¹⁸.

¹⁶ The Steering Committee confirmed that if the Committee agreed to the amendments to Schedule 4 to establish the SAC (see items 348-50 below), the SAC would, on behalf of the Council, discharge the advisory functions described in the renumbered clauses 56(1)(b) and (c) of the draft Measure “to give information and advice to the Commissioners [or to the CCT]” on specified matters. The SAC would therefore give advice directly to the Commissioners (or the CCT). Mr Halsey was grateful for this clarification.

¹⁷ Representing: the Ancient Monuments Society, the Civic Trust, the Council for British Archaeology, the Garden History Society, the Georgian Group, the Society for the Protection of Ancient Buildings, the Twentieth Century Society and the Victorian Society.

¹⁸ The original submission from DCMS to the Committee had expressed no opposition to the substance of what was proposed but rather only requested that the Secretary of State nominate the ‘independent strand’ and latest correspondence welcomed the draft amendment to Schedule 4 to bring this about. Paragraph 4.35 of *A Measure for Measures* explains that “in the light of the strong and positive response to this proposal [for the Board’s

249. Capacity was also an important concern for the Joint Committee. It was concerned that the membership of the SAC, as compared to the Board, would be too small to contain within it the range of expertise required to provide advice on churches of varying ages as well as on other issues, such as relationships with secular authorities. The Joint Committee would not have the same confidence in the SAC to do an adequate job as it currently had in the Board. Neither did it have confidence in the SAC's ability to act transparently to the same degree as the Board.
250. Mr Timothy Allen asked Dr Dungavell what could be done to improve the current provisions in Schedule 4 to address the Joint Committee's concerns about independence and capacity. Dr Dungavell replied that he felt that it would be impossible to make any improvements to these provisions that would adequately address the Joint Committee's concerns.
251. On behalf of the Council for the Care of Churches, the Bishop of Sodor and Man emphasised the recommendation of *A Measure for Measures* that "there is scope for rationalising the current central 'heritage' advisory function regarding the future of church buildings dealt with under the Measure" (paragraph 4.29) and that "there should be a single, unified central Church source of information and advice on church buildings, providing advice both on extended use and on settling the future of closed churches (recommendation 43, page 66). The Bishop felt that partnership and focus were more important than 'independence' which, although a significant factor, was one that he felt had been over-emphasised by previous speakers. In this connection, he pointed out that under section 41 of the 1993 Measure, the Archbishops appointed the Board and its expenses could be (and were) met by the Commissioners. Furthermore, the issue of 'independence' would be adequately met by the proposals circulated by the Steering Committee, which the Council supported, to establish the SAC (see items 348-50 below). Rather than an over-emphasis on 'independence', the Bishop advocated the partnership model; it was clear that this had worked and should not be overlooked, and the Bishop cited *Building Faith in our Future*, as an example. The Council already had a wealth of experience, of the needs of both parishes and DACs, as well as of secular authorities, and an impressive skills base in its members and staff. It would need more staff so that it could properly fulfil all the new duties placed on it.
252. The Reverend Canon Michael Ainsworth, speaking as a member of the Council, considered that it would be helpful for all concerned for there to be a single national body providing advice on the care and maintenance of churches, alongside the local expertise that was available at diocesan level. He also knew that the Council would like to be able to see cases through from beginning to end, rather than being confined, frustratingly, only to giving advice in the early stages as at present¹⁹.

advisory functions to be transferred to the Council] from other quarters both they [DCMS] and No.10 feel that if a compromise solution for retaining the independent strand of advice... cannot be found they would not want to be seen to unreasonably set themselves against the groundswell of support for the proposed change.

¹⁹ At this point the representatives of the Advisory Board for Redundant Churches, Mr Richard Halsey, Dr Ian Dungavell and the Bishop of Sodor and Man left the meeting.

253. The Committee also took into account the written submissions from Dr Julian Litten, who argued in favour of some form of independent advice on potential vestings in the CCT; the Council for British Archaeology, which expressed concern at the proposal to abolish the Advisory Board; the Institute of Historic Buildings Conservation, which pointed out that the Advisory Board had built up considerable respect from external bodies and said it was essential that a similar provision of advice was provided by the replacement body; and the Society of Antiquaries of London, which wished to explore the question of whether the Council was in a position to cover all of the often conflicting interests involved in the future of church buildings.
254. Mr Nigel Spraggins said that the description of the Board's role as set out by its representatives did not correspond to his experience. He had heard nothing to convince him that the proposals should not go ahead. The Committee also noted that the description of its role given by the representatives of the Board went beyond the statutory duties given to the Board, which were to give information and advice to the Commissioners and the CCT on specific matters and did not, for example, include seeking or proposing new uses. Also, in relation to the point that had been raised (by Mr Halsey and others) on how the duty to have regard to mission would affect the way in which the Council performed the advisory functions on 'heritage merit', the Committee noted that the duty under clause 1 of the draft Measure was to have "due regard" to the mission of the Church (as defined in clause 62); the nature of the function was obviously relevant in deciding what constituted "due regard". The Committee also noted that it had specifically rejected proposals for the needs of mission to be an overriding or paramount consideration. If the Board were not abolished then it, too, would be covered by the duty under clause 1, which related to all functions under the 1983 Measure as well as all those under the new Measure, unless specific provision was made to exclude it. The Committee's attention was also drawn to the provisions of the draft Measure making the Council a permanent statutory body which reported to the General Synod, analogous to the Cathedrals Fabric Commission, so that it would no longer merely be a non-statutory part of the structure of the Boards, Councils and Divisions of the Archbishops' Council.
255. Ms Paula Griffiths commented that a transfer of the functions of the Board to the Council would inevitably involve changes in the structure and work patterns of the Council, but these could be accommodated. She wished to counter the proposition that the Council would somehow be compromised in fulfilling the Board's current statutory advisory role because it was, or was seen as, the 'owner/ developer' of churches. This was totally wrong; the Council was in no way an owner or developer of churches at present, as parishes and diocesan advisory committees would testify, nor would it be so in the future if the present proposals were enacted.
256. Mr Paul Lewis stressed that the Board's role was not determinative; rather it gave advice to the Commissioners on 'heritage merit'. Beyond that the Board was not involved in 'uses' issues. The Worshipful Timothy Briden laid great stress on the new environment facing church buildings, in particular the blurring of the line between being fully in use and being closed for regular public worship: he saw this as a strong argument in favour of the unified, single authority, approach. Mr Timothy Allen highlighted as significant that the DCMS and the Prime Minister's

Appointment's Secretary were now expressing no opposition to the proposals to abolish the Board and transfer its functions to the Council (delegated to the SAC).

257. The Bishop of Exeter said that the Steering Committee remained of the view that the substantive proposals in the renumbered clause 54 and in Schedule 4 should proceed. The Steering Committee had heard nothing from the representatives who had appeared before the Committee to convince it that the original intent of the draft Measure (and *A Measure for Measure*) should be abandoned now. The Committee concurred. The Steering Committee would therefore propose amendments to Schedule 4 to establish the SAC (see items 348 to 350 below).
258. The Archdeacon of Hereford had proposed that the name of the Council for the Care of Churches should be changed to the "Council for the Care of Church Buildings" to make it clear that the Council's main function was to do with buildings rather than the Church as the people of God.
259. Mr Timothy Allen felt that a change of name for the Council was unnecessary and he would particularly regret the loss of the word "Care" its name. Ms Paula Griffiths also said that she would regret the loss of a familiar name that was widely known and recognised. She also pointed out that the work of the Council was, and in the future would still be, directed primarily at church buildings that were used as regular places of worship, therefore the Council was not concerned exclusively with the church building fabric (unlike the CCT); rather, it was always cognisant of church buildings as places used by the people of God for worship and mission. She therefore questioned whether the inclusion of the word "buildings" in the name of the Council was entirely appropriate or helpful²⁰.
260. Mr Nigel Spraggins felt that a change of name to include the word "buildings" would more accurately reflect the work of the Council and would fit in with the amendments already made by the Committee to include the word "buildings" in the name of certain schemes (items 90 and 138 above refer). The Reverend Simon Bessant also favoured a change of name to differentiate clearly between the Council's work, which everyone accepted was primarily to do with buildings, and the wider mission of the Church – and he pointed out that there were now new churches without buildings.
261. The Committee noted that a change of name now would emphasise that this was a new Council with a new constitution and new additional functions. On the other hand, the substance of the work undertaken by the Council (and its name) were, at present, well known and a change of name might create an impression that more had been changed than was actually the case.
262. The Reverend Simon Bessant proposed that in subsection (1) the words "Church Buildings Council" should be substituted for the words "Council for the Care of

²⁰ The Committee's attention was drawn to renumbered clauses 55(1)(c) (promoting care and conservation of churches etc., amongst the general public etc.) and 55(5) (definition of church, to include curtilage, burial ground, contents etc.) which appeared to show that the functions of the Council were not exclusively restricted to church buildings.

Churches” and the Committee agreed that these amendments should be made, voting four in favour, one against, with one abstention²¹.

263. The Steering Committee proposed a further amendment to subsection (1) relating to the creation of the new Council. The Steering Committee explained that the insertion of the words “and the body named the Council for the Care of Churches shall cease to exist” at the end of this subsection would make it clear that the existing non-statutory Council, whose constitution was laid down under the Standing Orders of the Synod, would cease to exist when the new statutory body came into existence. This provision would parallel the provision in clause 2(1) for the present Dioceses Commission to cease to exist when the new Commission came into being. The Committee agreed that this amendment should be made.
264. Amendments were made to subsection (3) to substitute the words “pastoral church buildings schemes” for the words “pastoral church schemes” and to substitute the words “pastoral (church buildings disposal) schemes” for the words “pastoral (church disposal) schemes” (see items 90 and 138 above).
265. The Committee agreed that clause 53 (renumbered 54) (as amended) should stand part of the Measure.

Clause 54 (renumbered 55) – Functions of Council in relation to churches, etc. in use

266. In her proposals for amendment the Dean of the Arches and Auditor had said that she was uncertain why “ecclesiastical courts” were distinguished from “judges” and “registrars” in subsection (1)(b), which dealt with consultation with the Council for the Care of Churches on faculty matters. She pointed out that ecclesiastical courts consisted of judges and that registrars served these courts. She proposed that in subsection (1)(b) the words “ecclesiastical courts,” should be deleted and that the words “of the ecclesiastical courts” should be inserted after the word “registrars”.
267. The Steering Committee supported this amendment and the Committee agreed that this amendment should be made.
268. The Reverend Canon Michael Ainsworth spoke to his proposal that the legislation should make express provision for the Council to have the right to give evidence in a consistory court in relation to hearings on faculty applications. The Committee noted that subsection (1)(b), as amended, inter alia, placed a duty on the Council to consider consultation by, and requests for advice from, judges and registrars of the ecclesiastical courts. Canon Ainsworth felt that a right for the Council to give evidence on its own initiative, as a ‘friend of the court’, not a party opponent, would be important and that this was the time for legislation to make such provision, when the Council’s constitution was being placed on a statutory footing.

²¹ With consequential amendments to the heading to renumbered clause 54, to the Long Title and to renumbered clauses 36(c), 37(b), 38(a), 39, 42(a), 43(a), 44(c) and (e), 45(c), (e) and (f) and clause 62 (new sub-clause (4)), Schedule 4, heading and paragraphs 6 and 8 and Schedule 5, paragraph 17(b).

269. The Worshipful Timothy Briden drew the Committee’s attention to rules 15, 22 and 23 of the Faculty Jurisdiction Rules 2000. Under rule 15 of these rules, the chancellor could direct that notice requesting advice from the Council be served on the Council: (a) for certain specified cases (unless the chancellor was satisfied that consultation with the Council had already taken place) or (b) in any other case where the chancellor considered that advice from the Council would be of assistance in relation to the petition. Under rule 22, the Council could apply to give evidence in court in proceedings for a faculty to demolish a church or part of a church and under rule 23 the Council could apply to give evidence in court in proceedings for any other case. Therefore, Chancellor Briden felt that what Canon Ainsworth was proposing was not necessary, given the existing comprehensive provisions in the Faculty Jurisdiction Rules 2000 for the Council to be consulted.
270. Canon Ainsworth said that his submission was directed to those cases where it was thought that there should be a ‘rule 15’ reference to the Council but this was not made. Ms Paula Griffiths underlined that if this right were to be given to the Council then now would be the opportune time to do so, when it was being given a statutory constitution. The Worshipful Timothy Briden suggested that it would not be appropriate for the draft Measure to give a right to the Council to give evidence for two principal reasons: the first and most important was that early consultation with the Council (rule 3(7) of the Faculty Jurisdiction Rules 2000 – advisory committee advice) was the best answer and rules 15, 22 and 23 already made adequate provision for the consistory court to hear the views of the Council; in his view the court would always wish to do so in practice if the Council indicated that it wished to make its views known to the court. The second reason was that the court must be free to regulate its own procedure. The Committee concurred.
271. The Archdeacon of Hereford had proposed that subsections (1)(c) and (d) should be reversed, to make the point that the use of buildings comes before conservation, with similar amendments to be made to the wording of subsections (1)(d), (2)(a) and 4(a)(i). The Committee agreed that none of these amendments should be made. It was noted that conservation was needed before a church could be used; in any case the order and wording used in these subsections gave no priority to conservation over use and therefore his proposed amendments were not necessary.
272. The Committee agreed that clause 54 (renumbered 55) (as amended) should stand part of the Measure.

Clause 55 (renumbered 56) – Functions of Council in relation to churches proposed for closure for regular public worship

273. Amendments were made to subsection (1)(d) to substitute the words “pastoral church buildings scheme” for the words “pastoral church scheme” and to substitute the words “pastoral (church buildings disposal) scheme” for the words “pastoral (church disposal) scheme” (see items 90 and 138 above).
274. An amendment was made to subsection (3) (see footnote 4 to item 90 above).

275. The Committee agreed that clause 55 (renumbered 56) (as amended) should stand part of the Measure.

Clause 56 (renumbered 57) – General functions of the Council

276. No proposals or submissions were received and no amendments were proposed.
277. The Committee agreed that clause 56 (renumbered 57) should stand part of the Measure.

Clause 57 (renumbered 58) – Powers exercisable by pastoral order

278. Mr Clive Scowen did not wish to press his proposal that pastoral schemes should be assimilated to pastoral orders, with the pastoral order procedure applying, so far as it related to this clause, as the Committee had already decided that it did not wish to adopt this proposal (see item 87 above).
279. The Committee agreed that clause 57 (renumbered 58) should stand part of the Measure.

Deleted clause 58 – Composition of the Churches Conservation Trust

280. Mr Frank Field MP and Mr Crispin Truman, respectively Chairman and Chief Executive of the CCT, spoke to the CCT's proposal concerning the procedure for appointing its trustees. Currently section 44(2) of the 1983 Measure provided for trustees to be appointed by Her Majesty, after the advice of the Archbishops had been submitted to Her Majesty through the Prime Minister. Clause 58 of the draft Measure would amend section 44(2) to increase the maximum number of trustees to be appointed (in addition to the chairman) from six to nine, something that the CCT welcomed. However clause 58 would also require the Archbishops, before submitting their advice on the appointment of trustees, to consult the Commissioners and the Secretary of State. The CCT asked the Committee to delete this additional requirement.
281. Mr Field said that the CCT had yet to hear a convincing case made for the proposed change in the legislative procedure for appointing trustees. What was being proposed was a matter of procedure that was best left outside of legislation, if indeed it was needed at all. No complaints had been made about how trustees had been appointed in the past or at the effectiveness of the trustees once appointed under the current arrangements, so why change things? Currently the Archbishops' Appointments Secretary would consult with the Prime Minister's Appointments Secretary on the appointment of all trustees, each normally consulting interested parties from, respectively, Church and State. (Under an informal arrangement the Department for Culture, Media and Sport ("the DCMS") usually 'nominated' one trustee.) This was already a lengthy process, and the proposed additional requirement would only serve to lengthen it further, as well as bringing less clarity, especially for the State. Mr Field noted that in commenting on the CCT's submission the DCMS had indicated that it was also content "that there would already seem to be sufficient opportunity for both Church and State to influence the appointments given the involvement in the

process of the Archbishops' and the Prime Minister's Appointments Secretaries" and that DCMS was not arguing in favour of the proposed change to the legislative procedure for appointing trustees and wished the informal arrangement for it to nominate one trustee to remain. However, Mr Field noted that DCMS were clear that if legislative provision were made for the Archbishops to consult with the Commissioners before submitting names to Her Majesty, then the Secretary of State (representing the Government as the primary sponsor of the CCT) must also be consulted. Mr Field therefore suggested that the proposed amendment to section 44(2) to provide for consultation with the Commissioners and the Secretary of State, if enacted, would give more influence and input to the State than was necessary.

282. Mr Paul Lewis reminded the Committee of the origins of the current provision in clause 58 for consultation with the Commissioners and the Secretary of State. Recommendation 50 of *A Measure for Measures* had been that "a more transparent method is needed in the appointment of trustees [of the CCT]. Both of the CCT's paymasters should play a part in this process." and in paragraph 4.53, that report had noted that "in its evidence the CCT called for the method of appointment of trustees to be more transparent" and that "the DCMS and the Church Commissioners also sought a more open process of appointment". Mr Lewis confirmed that the Commissioners wished to be fully consulted on the appointment of trustees, which had not always happened in the past.
283. Mr Truman pointed out that the Commissioners had a direct involvement in the work of the CCT in deciding which churches would and would not be vested in it. The Commissioners could also have had an input through the informal arrangement whereby two trustees were 'nominated' by the Church. If the Commissioners had not been sufficiently consulted in the past over these nominations that was a matter for regret, to be rectified by procedural improvement and, perhaps, a more open process of appointment, but that did not require legislative change. Mr Truman noted that it would indeed be unusual for the funders of a charity to have a statutory role in the appointment of trustees. The CCT acted independently and was perceived to do so, but this proposal could weaken that perception (if not the reality), as well as reducing the scope for procedural flexibility.
284. Mr Timothy Allen supported what Mr Field and Mr Truman had said. To provide the Commissioners with a statutory right to be consulted in the process of appointing trustees could only be brought about at the same time as the State was given an identical right. He agreed that this would further involve the State unnecessarily. The Worshipful Timothy Briden could also see the problems involved in establishing a formal consultation procedure that could cut across an informal procedure that was already established and in operation.
285. Mr Field concluded the CCT's submission on this proposal by stressing that it was only as it should be that the Commissioners were involved in work of the CCT. Nor was he arguing against appropriate consultation before the Archbishops submitted their advice. However this involvement did not need to take the form of a legislative requirement for the Commissioners to be consulted on the appointment of trustees.

286. The Committee was persuaded by the CCT's submission that the current provisions of section 44(2) for the appointment of trustees should not be amended (except to increase the maximum number of trustees). Mr Timothy Allen pointed out that while paragraph 4.53 of *A Measure for Measures* had noted that the DCMS favoured "a more open process of appointment", it now seemed to be satisfied with the status quo so far as the provisions of the 1983 Measure were concerned and with the informal arrangement for it to nominate one trustee. That being so, Mr Allen considered that any concerns that the Commissioners had about their involvement in the appointment of trustees should be addressed without legislative change. The Committee was also advised that there was nothing in section 44(2), as it stood, which would prevent the Archbishops or Her Majesty consulting with whomsoever they wished.
287. Mr Timothy Allen proposed an amendment to clause 58 of the draft Measure to delete all the words in clause 58 after the word "nine" to the end. The Committee agreed to this amendment being made.
288. The Committee agreed that the remaining provision in clause 58, to increase the maximum number of trustees to be appointed (in addition to the chairman) from six to nine, should be included in Schedule 5 (new paragraph 6(b) - see item 382 below) and that clause 58 should be deleted.

Clause 59 – Amendment of Schedule 3 to 1983 Measure

289. In his submission the Reverend Canon Nick Barker welcomed the provisions to be inserted into Schedule 3 of the 1983 Measure by subsection (4) whereby, where a team rector was to be chosen by the diocesan board of patronage or a special patronage board, every vicar in a team ministry, any deacon authorised to serve in the team ministry for whom special provision was made under section 20(3A) of the 1983 Measure, and any other member of the team having a special responsibility for the care of souls, would be entitled, between them, to have one vote, to be exercised by those of them (acting unanimously or by majority) who were present at the relevant meeting of the patronage board. He also welcomed the provision to be inserted into Schedule 3 to the 1983 Measure by subsection (8) relating to the involvement of parish representatives in the procedure for choosing a vicar in a team ministry. He considered that these were good and important provisions. However he had a concern over how the first of them would apply in practice in teams of different sizes and with differing numbers of vicars in the team. He had suggested that some form of 'sliding scale' should be considered so that team vicars in larger teams had more votes than in smaller ones. Mr Clive Scowen said that he thought neither subsection (4) nor subsection (8) was required. He considered that the existing law already made adequate provision for the representation of team vicars on a patronage board when a team rector was being appointed.
290. The Committee agreed with Canon Barker that these provisions were welcome. However it noted that any provision along the lines he suggested for a 'sliding scale' would probably need to be a good deal more complex than he envisaged, in particular to cover the possibility of a division of opinion among the team vicars etc., and could lead to difficulties in practice. For example, the Worshipful Timothy Briden pointed out that a 'sliding scale' approach whereby, say, in a team ministry with four vicars,

two vicars (collectively) had one vote and another two vicars had another vote, this could result in the voices of the vicars cancelling each other out. The Committee agreed that it was preferable to stay with the current provision as the best way, in practice, to ensure that the voice of the vicars (and others covered by it) in a team was always heard in the appointment of a rector. It therefore did not accept Canon Barker's proposed amendment.

291. Expanding on his previous point, Mr Clive Scowen considered that transferring power to a team council in the way proposed by subsection (8) was unacceptable. The Committee noted that subsection (8) would insert a new sub-paragraph (7A) into paragraph 2 of Schedule 3 to the 1983 Measure. This related to the procedures for choosing a vicar in a team ministry. The preceding sub-paragraph (6)(a) of paragraph 2 provided that the body or other persons entitled to make this choice was not to make an offer of an appointment to any person until the parish representatives had approved that offer. Under the existing provisions of sub-paragraph (7) of paragraph 2 the parish representatives would be two lay members of the PCC concerned. The new sub-paragraph (7A) would provide that where a team council had been established for a benefice with more than one parish, rather than sub-paragraph (7) applying, the parish representatives would be two lay members of the team council appointed by that council.
292. Mr Scowen took the view that as, in reality, a team vicar's post in a team was likely to relate to only one parish, the PCC of that parish should retain its current power (effectively a 'veto') to approve an appointment of a team vicar that directly affected that parish. Otherwise, in a cross team decision, both the parish representatives might be from another parish or parishes within the team. He asked for clause subsection (8) to be deleted.
293. In discussion the Bishop of Bradford noted that team ministries varied greatly in how they were set up. It was certainly not always the case, in his experience, that a vicar was appointed to work with only one parish within a team, and it was often already the case that a single parish would not have an exclusive say (via parish representatives) on the appointment of the team vicar to minister to that parish. The Bishop also trusted that a decision of a team council would fairly represent those parishes that were most directly affected. The Committee also noted that the new provision introduced by subsection (8) applied only where a team council had been established for the team benefice. The Committee agreed that subsections (4) and (8) should both be retained, and did not accept Mr Scowen's proposals.
294. The Commissioners had proposed an amendment to paragraph 12 of Schedule 3 to the 1983 Measure (dealing with representatives of the laity on PCCs of newly created parishes). Mr Paul Lewis explained that this was needed in order to secure consistency with amendments already made by the Church of England (Miscellaneous Provisions) Measure 2005 to other similar provisions relating to what were intended to be "interim" arrangements, for example for team or group councils, district church councils or joint PCCs in paragraphs 4(5) and 13(2) of Schedule 3 (see item 233 above). In order to achieve this, paragraph 12(2) of Schedule 3 needed to specify that where any provision was included in a pastoral scheme (or was made by an instrument authorised under a scheme) ensuring that the congregation of every

church (or place of worship) in a new parish would have its own elected representatives of the laity on the PCC of that parish, then these provisions would expire automatically after five years, or any lesser period specified in the scheme or instrument. (At present, paragraph 12(2) provided, as paragraphs 4(5) and 13(2) had done before the 2005 Measure, that the arrangements would expire at the end of such period as “may be specified” in the scheme or instrument up to a maximum period of five years, but made no provision for cases where the scheme or instrument failed to do so.)

295. The Steering Committee proposed an amendment to insert a new subsection (9) into clause 59 which would achieve what the Commissioners had requested. The Committee agreed that this amendment should be made.

296. The Committee agreed that clause 59 (as amended) should stand part of the Measure.

Clause 60 – Amendment of Schedule 4 to 1983 Measure

297. The Commissioners had proposed an amendment to paragraph 14(2) of Schedule 4 to the 1983 Measure. Mr Paul Lewis explained that section 26 of, and Schedule 4 to, the 1983 Measure dealt with compensation of clergy. They covered an incumbent of a benefice being entitled to compensation for any loss suffered in consequence of the dissolution or vacation of the benefice etc. by, or as the result of, a pastoral scheme. These provisions also applied to archdeacons and vicars in team ministries similarly affected by pastoral reorganisation. Paragraph 14(2) dealt specifically with who should be present at meetings of the diocesan pastoral committee when it was reaching a determination or decision in relation to compensation or was interviewing the person affected by that determination or decision. Paragraph 14(2)(b) provided that “the member representing the diocesan board of finance” should be one of the members of the pastoral committee who should be present (subject to a proviso that if this member was not available then the DBF was to have power to nominate another member or officer of the DBF (who need not be a member of the pastoral committee) to act in that member’s place at the meeting). However, it was now no longer a requirement for the DBF to appoint a member of the pastoral committee (since section 2(3) of the Synodical Government Measure 2003 had come into force and repealed paragraph 4 of Schedule 1 to the 1983 Measure), and therefore a consequential amendment was required to paragraph 14(2) of Schedule 4 to the 1983 Measure.

298. The Steering Committee proposed amendments to clause 60 to insert new subsections (a) and (b). The Steering Committee explained that these amendments would provide for the DBF to nominate a person to represent the interests of the DBF on the pastoral committee at any meeting within the existing paragraph 14(2) of Schedule 4. This person could, but need not, be a member of the pastoral committee; if not, he or she would be entitled to be present throughout and speak but not to vote. Mr Paul Lewis confirmed that the Commissioners were content with these amendments. The Committee agreed that these amendments should be made.

299. The Committee agreed that clause 60 (as amended) should stand part of the Measure.

Clause 61 – Assistant curates

300. The Steering Committee proposed an amendment to the proviso to subsection (5). The Steering Committee explained that subsections (1) to (4) established a procedure allowing for alternative titles to that of assistant curate to be used. In view of subsection (2), clause 61 clearly applied to team ministries. Subsection (5) went on to provide that the bishop could assign to an assistant curate ‘a special cure of souls for part of the area of a benefice’ or ‘a special responsibility for a particular pastoral function’, without prejudice to the general duties etc. of the incumbent or priest-in-charge. Standing Counsel explained that a point of law had arisen as to whether the provisions of subsection (5) duplicated, conflicted with, or in any other way ‘cut across’ the existing provisions in section 20 of the 1983 Measure on the establishment of team ministries and the responsibilities of members of the team chapter (and possibly other members of the team) and the Steering Committee had proposed this amendment to remove any uncertainty on that point. The proposed amendment would retain the current provision at the end of subsection (5) that ensured that the assigning to an assistant curate of a special cure of souls or a special responsibility would be without prejudice to the general duties and responsibilities of the incumbent or priest-in-charge. It would add to this a further provision to ensure that such an assignment, in the case of an assistant curate in a team ministry, would be without prejudice to any duties or responsibilities under section 20 of any member of the team chapter or any other member of the team. The Committee agreed that this amendment should be made.
301. The Committee agreed that clause 61 (as amended) should stand part of the Measure.

Part VIII - Miscellaneous

Renewal of suspension of presentation

302. Canon Raymond Hemingray, the diocesan registrar of the diocese of Peterborough, had requested that it be made clear on the face of the 1983 Measure whether or not it was possible for a power of suspension of presentation to be exercised a second time during the same vacancy. He cited contradictory interpretations of the current law: one view being that if a suspension period had expired then the bishop could not issue a further suspension notice during that vacancy; the contrary view being that he could. The Commissioners had also requested that this be made clear on the face of the Measure.
303. The Committee noted that under section 67 of the 1983 Measure, where presentation had been suspended, the suspension period could be extended provided this was done before the suspension expired. The issue that had arisen was whether, once it had expired, a fresh suspension could be imposed during the same vacancy in the benefice. The Committee was advised that the correct interpretation of section 67 of the 1983 Measure was that once the power of suspension had been exercised it could not be exercised a second time during the same vacancy. In other words, once the suspension period (extended or not) came to an end, there could be no second suspension during that vacancy.

304. The Steering Committee prepared an amendment to Schedule 5 to the draft Measure that would remove any possible doubt that there might be as to the effect of the 1983 Measure on this point; it would do nothing to change the existing law. In discussion of this amendment in the Committee questions were raised as to whether this was the right approach to take. The Bishops of Exeter and Bradford in particular were concerned that the existing law was too inflexible, and that clarifying it would serve to underline this. They would prefer it if the law could be changed so that the power of suspension could be exercised more than once during the same vacancy, whether or not the initial suspension period had expired.
305. In support of this the Bishop of Exeter cited the example of a vacant benefice which (say, while awaiting pastoral reorganisation) had been subject to suspension. Nothing had come of the proposed pastoral reorganisation and the suspension had therefore been lifted or allowed to expire without being extended. Shortly afterwards circumstances unexpectedly changed so that pastoral reorganisation again became a real possibility and the bishop would wish to be able to 're-suspend'. The Bishop noted that the provisions of section 69 of the 1983 Measure (restriction on presentation pending the making of pastoral schemes and orders) might apply in these particular circumstances, but if not, he would welcome the option of being able to impose a fresh suspension. The Worshipful Timothy Briden pointed out that under section 70(c) of the 1983 Measure, where the bishop declares a suspension period in respect of a benefice, "that benefice shall be deemed for the purposes of that Measure [the Patronage (Benefices) Measure 1986] to become vacant immediately after the day on which the suspension period comes to an end ...". This meant that when a suspension period came to an end the provisions of the 1986 Measure for the filling of that vacancy (beginning with the giving of notice under section 7(4)) would immediately come into force. Therefore if it were made possible for a second suspension to be applied in the same vacancy, amendments would also need to be made to allow for the process under the 1986 Measure to be halted and also to provide (when the suspension was again lifted) for whether that process would resume where it had left off or whether it should be started again from the beginning.
306. The Committee also noted that there was no express provision in the 1983 Measure as it stood specifying the grounds on which presentation could be suspended. In addition, there was no requirement currently placed on the bishop to give reasons when imposing a suspension, although it was pointed out that the bishop was already required to give reasons for considering the suspension when consulting with the patron(s), PCC and deanery synod chairs. The Bishop of Bradford and Mr Timothy Allen both regretted the continued use of the word 'suspension' in this context, which they saw as unhelpful and liable to give rise to misunderstanding in the parishes. They were not immediately able to suggest an alternative and they recognised that a change of wording of this kind would require a significant number of amendments to existing legislation.
307. The Steering Committee agreed that it would not propose the amendment that it had tabled to clarify the existing law (see item 304 above) and reported that, after further consideration, it was not of one mind on how to proceed. The Worshipful Timothy Briden continued to express considerable unease at the principle underlying a change in the law to allow for a second suspension to be imposed during a vacancy, namely

that the bishop could stop on-going procedures and in effect ‘go into reverse’. The Bishop of Exeter on the other hand considered that the current law would need to be changed at some point, as it was too inflexible and was therefore not working satisfactorily, at least in his experience of rural ministry (and that clarification would only make matters worse). Professor Michael Clarke said that he had been convinced that there was a need for the law to be amended to make it workable.

308. Thus, although the Steering Committee was not of one mind on the matter, the outcome was that the Bishop of Exeter proposed a series of draft amendments to Schedule 5 to the draft Measure (new paragraphs 12 to 14 and 19) to amend the 1983 Measure, accompanied by the insertion of new subsections (2) and (3) into clause 63 to make consequential amendments to two other Measures (see items 388-89 and 317 below). The Committee noted that paragraph 12(b) and (c) of Schedule 5 and the amendments to insert a new sub-section 6(a) and (6A) into section 67 of the 1983 Measure, would address an apparent difficulty in the working of the current law in practice, by placing a definite responsibility on a designated office-holder to give prior notice to the bishop and the secretary of the pastoral committee that a suspension period was due to expire and thus give an opportunity to consider extending the suspension period before it expired. These provisions could be used even if it was not thought appropriate to change the law by allowing a second suspension during the same vacancy. Mr Nigel Spraggins expressed some regret that these particular amendments were seen as necessary.
309. The remainder of these amendments were required to make the substantive change, to allow for more than one suspension, and to make appropriate consequential amendments. The Committee noted that the new paragraph 12(a) of Schedule 5 would insert a new sub-section 67(5A) into section 67 of the 1983 Measure that would allow for a second suspension to be imposed during the same vacancy in a benefice, and that the amendments in the new paragraph 14 of Schedule 5, to section 70(c) and (d) of the 1983 Measure, would allow for the procedures undertaken under the Patronage (Benefices) Measure 1986 for the filling of that benefice to be halted once a second suspension period had been imposed and to be started again from the beginning when the second suspension period came to an end.
310. The Committee accepted these amendments; the formal decisions to amend Schedule 5 accordingly are to be found under that Schedule (see items 388-89 below).
311. The Committee noted that Mr Frank Knaggs was seeking a review of the legal provisions relating to suspension of presentation that extended much further than the issue of re-suspension (also see item 236-37 above). For instance, in speaking to his submission, Mr Knaggs argued that if the diocese neglected to carry out the required consultations under section 67 of the 1983 Measure (suspension of presentation for period not exceeding five years) then any subsequent suspension of presentation should be invalid. The Steering Committee shared the view that the Follow-Up Group had taken, namely that this was one of the matters that should be left to the ongoing review of clergy terms of service to deal with (GS 1597-9X, paragraph 16 of the overview) and was not a matter for the present draft Measure. The Committee concurred, and did not make the amendment suggested.

Clause 62 - Interpretation

312. Mr Frank Knaggs had expressed concerned at the definition of “mission” in subsection (1): “the whole mission of the Church of England, pastoral, evangelistic, social and ecumenical”. He wished the definition of mission to be directed to evangelism. The Committee noted that the definition of mission in the Measure as drafted was integral to the understanding of how clause 1 and clause 62(1) would work together – with the provision in clause 1 for “any person or body carrying out functions under this Measure ... to have due regard to the mission of the Church of England” being read in conjunction with this definition of mission (see item 9 above). The Committee also noted that clause 1 applied to the whole of the draft Measure and the whole of the 1983 Measure, and it was therefore important to have the broad definition in clause 62(1), which was the one used in the Parochial Church Councils (Powers) Measure 1956 and other legislation. Mr Dudley Coates also spoke in favour of keeping the current definition of mission, as the inclusion in that definition of the ecumenical dimension was important for the ecumenical partners of the Church of England. He noted that the Bishop of Exeter, in his speech at first consideration, had highlighted that clauses 1 and 62, combined, gave “a clear mission context”. The Committee was content that the broad and inclusive definition of mission as currently provided in clause 62(1) was the appropriate one and did not make any amendments to it.
313. An amendment was made to substitute the words “pastoral church buildings scheme” for the words “pastoral church scheme” in subsection (1) (see item 90 above).
314. The Steering Committee proposed an amendment to subsection (1) to move the definition of “pastoral committee” to come immediately before the definition of “pastoral scheme”. The Committee agreed that this amendment should be made.
315. An amendment was made to insert a new subsection (4) to provide that any reference to the Council for the Care of Churches (in any Measure or other enactment or in any instrument or document) would be construed as a reference to the Church Buildings Council (see the footnote 21 to item 262 above).
316. The Committee agreed that clause 62 (as amended) should stand part of the Measure.

Clause 63 – Amendment of Measures

317. The Bishop of Exeter proposed an amendment to insert new sub-sections (2) and (3) into the clause 63. These sub-sections were related to the provisions on re-suspension of presentation (see item 302-09 above). The Committee agreed that this amendment should be made, with one abstention.
318. The Committee agreed that clause 63 (as amended) should stand part of the Measure.

Clause 64 – Transitional provisions

319. No proposals or submissions were received and no amendments were proposed.

320. The Committee agreed that clause 64 should stand part of the Measure.

Clause 65 – Repeals

321. No proposals or submissions were received and no amendments were proposed.

322. The Committee agreed that clause 65 should stand part of the Measure.

Clause 66 – Citation, commencement and extent

323. No proposals or submissions were received and no amendments were proposed.

324. The Committee agreed that clause 66 should stand part of the Measure.

Schedule 1 – The Dioceses Commission

325. In its written submission to the Committee, the Cornish group *Fry an Spyrys* (see item 33 above) objected to a Dioceses Commission “with teeth” which was not fully elected by the Synod. In their oral submissions, the representatives of the group expressed surprise that the appointed members would form a majority of the membership of the Commission (given that paragraphs 1 to 3 of Schedule 1 provided for the Chair and Vice-Chair and four other members to be appointed with a further four members being elected). In their view this was not fair and democratic. They supported recommendation 6 of *A Measure for Measures* that had called for “every diocese to be represented on the central body by voting members” when proposals affecting it were under consideration.²²

326. It was pointed out to the Committee that the current Commission was wholly appointed and therefore it had to be acknowledged that paragraphs 1 to 3 of Schedule 1 would make the new Commission more democratic by introducing an elected element into its membership for the first time. The representatives of *Fry an Spyrys* were asked whether they agreed that the Commission needed to retain an appointed element to maintain a minimum level of expertise. In response, they accepted that a wholly elected Commission, as called for in the group’s original submission, might not be the best way forward, as they acknowledged that the Commission would need to have appropriate theological, historical and legal expertise among its membership. However, if there were to be appointed members, the representatives suggested that they should be non-voting members, with an advisory role only. Mr Frank Knaggs also spoke to his proposal that a majority of the membership of the Dioceses Commission should be elected and that the Appointments Committee (rather than the Archbishops) should appoint the Chair and Vice-Chair of the Commission.

327. The Committee considered the proportion of members of the Commission appointed by the Archbishops or the Appointments Committee compared with those elected by the Synod and the provision for the choice of the Chair and Vice-Chair. It concluded

²² Recommendation 6 of *A Measure for Measures* is in the following terms: “Every diocese should be represented on the central body by voting members when proposals affecting its continuation or substantial changes to its boundaries are under consideration.”

that in these respects paragraphs 1 to 3 of Schedule 1 were satisfactory. The Committee therefore did not accept *Fry an Syprys*' proposal; Mr Frank Knaggs said in the light of the Committee's discussions he did not wish to press his proposal that the proportions of elected and appointed members be adjusted, and the Committee did not make any amendments to give effect to his proposals.

328. However, Mr Timothy Allen spoke in support of some form of representation on the new Commission of dioceses affected by a re-organisation scheme, his preference being for a diocese to have full voting members on the Commission whilst a scheme affecting that diocese was considered (as under recommendation 6 of *A Measure for Measures*).
329. The Committee noted that it had already made an amendment to clause 6(4) of the draft Measure (see item 26 above) to allow for representatives of the diocesan synods of dioceses affected by a scheme to make oral representations to the Commission. However, Mr Allen's proposal gave rise to a number of issues. If diocesan representatives were also to be members of the Commission, would they be additional to those making representations? How many diocesan members could there realistically be, especially taking into account the scenario of a scheme affecting multiple dioceses? It was generally accepted that one member would have to be the diocesan bishop of the diocese concerned, so the minimum number would have to be two per diocese. Therefore, for instance, in the case of a scheme to reorganize diocesan boundaries for a number of neighbouring dioceses, this could involve two representatives from each of the dioceses concerned (a number perhaps equivalent to the Commission's existing membership of ten). It was also noted that the analogy drawn with the Crown Nominations Commission in support of recommendation 6 of *A Measure for Measures* had not been supported by the Follow-Up Group, mainly because the new Commission would have a national and from time to time a shifting diocesan focus (and a number of different schemes and other matters were likely to be dealt with at each of its meetings), whereas the Crown Nominations Commission was always constituted solely to consider a vacancy for one particular diocesan see.
330. The Committee noted that there was also the question of when any diocesan representatives would be entitled to become members of the Commission. The right to make oral representations provided under the amended clause 6(4) of the draft Measure related only to the stage when the Commission had prepared a draft scheme and held formal consultation on it. Should diocesan representatives also be entitled to membership of the Commission (or any other form of representation) before that stage was reached (i.e. when the Commission could be considering proposals received from a diocesan bishop (clause 6(2)) or preparing a draft scheme on its own initiative (clause 6(3))?
331. The Steering Committee reported that it had given detailed consideration to a range of different procedures that might be put in place to achieve what Mr Allen had proposed. The procedures considered had included an extension of the right to make oral representations to include a right to attend and speak (but not vote) whenever these representations and the draft scheme to which they related were being discussed, or a right for representatives of the diocese to attend meetings of the

Commission, and to speak but not to vote, that was not restricted to meetings where the Commission was considering diocesan responses to consultation on a draft scheme. The Steering Committee briefly explained some of the difficulties involved with the latter: (1) how would any delegation be made up – its nature and size? (2) In what circumstances would it apply? *A Measure for Measures* had proposed that every diocese should be represented [by voting members] where there was a proposal to dissolve the diocese or make substantial changes to its boundaries – who would decide whether any proposed boundary changes were ‘substantial’? And (3), at what stage in the Commission’s deliberations would these provisions apply – before a draft scheme was prepared or only after? Would it apply only before the scheme was submitted to the Synod or also at later stages?

332. The Steering Committee had finally concluded that all the options available would be unduly complex and also unsatisfactory for other reasons. In the Steering Committee’s judgment the position the Committee had already reached, in clause 6(4) as amended, provided the right balance and ‘light touch’, allowing as it would for diocesan representatives and the Commission to have a ‘dialogue’, whilst preserving the ability of the Commission to work in private where appropriate. The Committee concurred and did not accept any options proposed.
333. Apart from the above, no proposals or submissions were received and no amendments proposed.
334. The Committee agreed that paragraphs 1 to 18 of Schedule 1 should stand part of Schedule 1 and that Schedule 1 as a whole should stand part of the Measure.

Schedule 2 – Contents of Reorganisation Schemes

Paragraphs 1 and 2

335. No proposals or submissions were received and no amendments were proposed. The Committee agreed that paragraphs 1 and 2 should stand part of the Schedule.

Paragraphs 3, 7 and 8, 12 to 14 and 16

336. The Archdeacon of Tonbridge raised two questions relating to the possible merger of dioceses; firstly whether the Charity Commission had been consulted over the implications for diocesan trust funds of a merger of dioceses, and secondly whether the security of office (and of employment) of clergy and of contractual employees of dioceses involved in a merger would be maintained. He commented that presumably the Transfer of Undertakings (Protection of Employment) Regulations would apply to employees, but asked about the position of office-holders. The Committee was advised that once it had completed its work on these paragraphs of Schedule 2 and on a few other provisions in the draft Measure relating to charitable trusts, it would be helpful to consult the Charity Commission on them. However, in so far as they were substantially the same as the existing legislation, there was no reason to believe that the Charity Commission would raise any objections to what was envisaged. As regards the Archdeacon’s second point, the Committee noted the provisions in Schedule 2 for certain offices to cease to exist, and also noted paragraph 16, under

which the holders of offices in a diocese or cathedral (other than those who were employees in respect of the same functions) would receive compensation for any loss suffered as a result of abolition or reduction in status of the office under a reorganisation scheme. The Committee was content with these explanations and accepted that no amendments were needed.

337. The Committee agreed that paragraphs 3, 7 and 8, 12 to 14 and 16 should stand part of the Schedule.

Paragraphs 4 and 5

338. The Archdeacon of Tonbridge queried what would happen to contracts entered into by a cathedral that was abolished (or became a pro-cathedral) as a result of a merger of dioceses. The Steering Committee was satisfied that the scheme would be able to make provision for this eventuality by using the powers in paragraph 18 of Schedule 2, and the Committee was content with this explanation.

339. The Committee agreed that paragraphs 4 and 5 should stand part of the Schedule.

Paragraph 6

340. Mr Frank Knaggs spoke to his submission, which drew attention to the possibility that, in principle, the provisions of the draft Measure could be used to abolish any of the sees of Canterbury, York, London, Durham or Winchester, and asked how this would impact on the right of the bishops of these sees to a seat in the House of Lords. The Committee noted that at present, under section 5 of the Bishops Act 1878, the bishops of these five dioceses had an automatic right to a seat in the House of Lords, and twenty-one of the other diocesan bishops (other than the Bishop of Sodor and Man and the Bishop of Gibraltar in Europe) also had seats according to seniority of appointment to diocesan sees. If any of the sees to which Mr Knaggs referred were abolished, this would create a lacuna in the present legislation. However, there must be questions as to whether it was appropriate for the present draft Measure to alter the composition of the House of Lords, and given that the abolition of any of the five sees seemed to be only a remote possibility the Committee agreed that the best course was to leave the 1878 Act as it stood and leave any problems of this kind to be considered if and when they arose.

341. The Committee agreed that paragraph 6 should stand part of the Schedule.

Paragraphs 9 to 11, 15, 17 and 18

342. No proposals or submissions were received and no amendments were proposed. The Committee agreed that paragraphs 9 to 11, 15, 17 and 18 should stand part of the Schedule.

343. The Committee agreed that Schedule 2 as a whole should stand part of the Measure.

Schedule 3 – Constitution and Procedure of the Pastoral Committee

344. Mr Frank Knaggs had proposed that the draft Measure should require the pastoral committee to have a majority of elected members. The Steering Committee resisted any change in the Measure as drafted in this respect. It wished to maintain the flexibility as to the balance of appointed and elected members (to be decided by the diocesan synod) that paragraph 5 of Schedule 3 currently provided. The Committee concurred.
345. In his submission the Archdeacon of Suffolk (the Venerable Geoffrey Arrand) stressed the important role of archdeaconry sub-committees of diocesan pastoral committees and was concerned that Part VI of the draft Measure appeared to be silent on the issue of delegation. The Archdeacon asked for a specific provision allowing for this. The Steering Committee directed the Committee's attention to the existing paragraphs 8 and 9 of Schedule 3, which gave the pastoral committee the power to appoint sub-committees (including members who were not members of the main committee) and to delegate any of its functions (except those involving meeting incumbents and team vicars personally under section 3(5) of the 1983 Measure) to them. The Committee noted that these powers could be used to create archdeaconry sub-committees to deal with, virtually, all the functions of the pastoral committee, as sought by the Archdeacon and therefore no amendment was necessary to achieve what the Archdeacon proposed.
346. No other amendments were proposed to or submissions made on any paragraphs of Schedule 3 and the Committee agreed that paragraphs 1 to 12 should stand part of Schedule 3 and that Schedule 3 as a whole should stand part of the Measure.

Schedule 4 – The Church Buildings Council

347. An amendment was made to the heading to the Schedule to take account of the change in the name of the new statutory advisory body to replace the Council for the Care of Churches and take on the functions of the Advisory Board for Redundant Churches (see footnote 21 to item 262 above).

Paragraphs 2, 10, 14, 15 and new paragraphs 16 to 21

348. On the basis of the Committee's decision to retain the substantive provisions in Part VII of the draft Measure regarding the transfer of functions from the Advisory Board for Redundant Churches to a new statutory body to replace the Council for the Care of Churches (see items 239 to 257 above), the Steering Committee proposed amendments to paragraphs 2(a), 10, 14 and 15 of Schedule 4 and amendments to insert new paragraphs 16 to 21 into Schedule 4 (together with some other amendments consequential on the change of name). The Committee had already seen the amendments in the form of a working draft (see items 239 above). The Steering Committee explained that these amendments, inter alia, would provide for the Secretary of State to nominate the four 'independent strand' members of the Council (rather than merely be consulted) before they were appointed by the Archbishops and for a permanent sub-committee of the Council (called the Statutory Advisory Committee) to be established to discharge, on behalf of the whole Council, the

advisory functions previously discharged by the Board. The Steering Committee also explained that ‘Statutory Advisory Committee’ was a more appropriate name for this permanent sub-committee of the Council than ‘Special Advisory Committee’, the name it had used when circulating these proposals as a working draft (see item 239 above), as the Council might have a number of ‘Special’ sub-committees, but only one, this one, that would be expressly established by legislation.

349. The Steering Committee went on to explain that the SAC would consist of the ‘independent strand’ (four members), three other members of the Council appointed by the Council and the Chair of the Council (to chair the SAC but not to have a vote). The Council would also have power to delegate other functions to the SAC or seek its advice on other matters, as the Council thought fit, either generally or in relation to specific matters or categories of matters. The SAC would give advice directly to the Commissioners and the CCT, but would also report to the Council on the discharge of its functions from time to time and, in any event, at least every six months and at such times or intervals as the Council might direct. The specific provisions relating to the procedures of the SAC would be that (a) it would have a quorum of four, at least two of whom must be from the ‘independent strand’ and (b) the Chair of the SAC would not be entitled to vote and any person chosen to preside in the absence of the Chair, would not have a second or casting vote. Apart from these two specific provisions, its procedures would be governed by the general provisions in the draft Measure regarding the Council’s procedures.
350. Ms Paula Griffiths stressed the significance of the Chair of the Council not having a vote on the SAC so the ‘independent strand’ would be in a voting majority on the SAC. However it was also important to note that the ‘independent strand’ would be full participating and integral members of the full Council, for all purposes, not merely members of the SAC. She noted that the proposed amendments would strengthen the ‘independent strand’ whilst maintaining the holistic approach of a “single, unified central Church source of information and advice on church buildings” as set out in recommendation 43 of *A Measure for Measures*. Therefore the present Council for the Care of Churches supported these amendments.
351. The Committee agreed that these amendments should be made.

Paragraphs 2 and 3

352. The Reverend Canon Dr Christopher Sugden spoke to his submission that paragraph 2 of Schedule 4, on the membership of the new Council, needed to include a new sub-paragraph providing for the appointment to the Council of a person with “expertise in the entrepreneurial development of buildings for commercial or non-commercial use for the benefit of the surrounding community by sale or lease”. Dr Sugden was concerned that the culture of the new Council would be dominated by architecture, art, archives and archaeology and not sufficiently concerned with seizing new opportunities for using church buildings for the wider community, or even suitable commercial use, pending the time that they might be required again for regular public worship. Dr Sugden wished to see people on the new Council with a vision and aptitude for mission, people who could enable mission groups to use churches in imaginative ways, realising that every church building is a Gift of God

and an asset. He emphasised that once a building was lost to the Church it could never be regained²³.

353. Mrs Janet Atkinson asked why the Council could not consult with people with expertise in building development and use when required rather than having people with these skills as members. Dr Sugden replied that it was important to have this expertise within the Council so that it influenced its culture and whole approach.
354. The Reverend Canon Michael Ainsworth spoke to his proposal for amendment that was very similar to Dr Sugden's proposal. He too saw "direct experience in dealing imaginatively and sensitively with the development and management of historic buildings ... as a skill which would be of benefit to the Council". He suggested that the best way of securing this might be by expansion of the existing paragraph 2(f) of Schedule 4 to include a reference to "expertise in management or development of buildings". Like Dr Sugden he saw the need for a cultural change in the Council's approach and was sure that this could best be achieved by having a person with such expertise as a member of the Council.
355. The Committee was sympathetic to the proposals from Dr Sugden and Canon Ainsworth. Ms Paula Griffiths considered that this type of expertise would be of value to the new Council as it took on its new expanded role. However she would not wish this additional expertise to be acquired at the expense of any of the types of expertise already guaranteed by the existing paragraphs 2(a) to (e) of Schedule 4. The Archdeacon of Colchester strongly supported the appointment of someone with this expertise. The Bishop of Exeter suggested that the size of the Council should not be increased. The Committee concurred on both points. One option therefore, as suggested by Canon Ainsworth and supported by the Bishop of Bradford, would be for an amendment to be made to the existing paragraph 2(f) to provide for the appointment of someone with this expertise. Ms Paula Griffiths advised against this approach as that provision (providing for the appointment by the Appointments Committee of three persons, having regard to the need to include on the Council persons with specified types of expertise) was designed to ensure that any 'gaps' remaining in certain areas of expertise could be filled after all the nominations by other bodies made under paragraph 2(a) to (e) had been made, rather than guaranteeing the appointment of someone with a specific type of expertise.
356. Mr Timothy Allen suggested that a new paragraph 2(f) should be inserted into Schedule 4 providing that the Appointments Committee should appoint one person with the required expertise to the Council. He also suggested that the maximum number who could be co-opted by the Council under paragraph 3 of Schedule 4 should be reduced by one, from three to two persons. The Committee agreed with this suggestion. Dr Sugden and Canon Ainsworth agreed with the Committee that amongst the qualities needed by the person appointed would be 'creativity', 'imagination', 'innovation' and skills or expertise as regards 'management' and

²³ Dr Sugden illustrated what could be achieved by the example of the church of SS Philip and James, Oxford, a Grade I listed church that has now been converted into the home of the Oxford Centre for Mission Studies, with office facilities, café and a study centre – a building that is used by approximately thirty people a day and for 1800 hours a week.

‘innovative development’; all of which could be directed at the mission focused use of churches, both those in use and those closed for regular public worship.

357. The Steering Committee therefore proposed amendments to achieve what had been suggested above. These consisted of an amendment to paragraph 2 to insert a new sub-paragraph (f) providing for the appointment of one person on the nomination of the Appointments Committee, who was to have “expertise in the innovative use of churches and former churches, including their management and development” and an amendment to paragraph 3 to reduce the maximum number of co-opted members from three to two. The Committee agreed that these amendments should be made.
358. The Committee was content that the amended provisions dealt adequately with the issues raised by the Archdeacon of Tonbridge about the membership of the new body (from the point of view of expertise, independence and authoritative advice) and the committee sub-structure. (The Archdeacon’s questions about the staffing and resources of the new body were not a matter for the draft legislation.)
359. The Committee agreed that paragraphs 2, 3, 10, 14 and 15 (as amended) should stand part of Schedule 4.

Paragraphs 6 and 8

360. An amendment was made to paragraph 6 to insert the words “for the Care of Churches” after the word “Council” where it occurred a second time and to insert the same words after the word “Council” in paragraph 8 (see footnote 21 to item 262 above). These amendments were consequential on the change in the name of the new statutory advisory body, which meant that references to the existing Council needed to be by its full name.

Paragraphs 1, 4 to 5, 7, 9 and 11 to 13 and 16 to 20 (renumbered 22 to 26)

361. No proposals or submissions were received and no amendments were proposed to paragraphs 1, 4 to 5, 7, 9 and 11 to 13 and paragraphs 16 to 20 (renumbered 22 to 26) of Schedule 4 and the Committee agreed that all these paragraphs should stand part of Schedule 4.
362. The Committee agreed that Schedule 4 as a whole (as amended) should stand part of the Measure.

Schedule 5 – Amendment of Pastoral Measure 1983

363. The Archdeacon of Lincoln (the Venerable Arthur Hawes) spoke to his proposal in which he asked for some new mechanism (neither group nor team ministry) under the 1983 Measure to allow for a collaborative form of ministry across a whole area, whilst at the same time keeping specific areas of pastoral responsibility. The Committee noted that inter-changeability of ministerial responsibility was what was required. The Committee also noted that it was possible to achieve this in practice under existing legislation (for instance, by a number of neighbouring incumbents being licensed as assistant curates in each other’s parishes), even if the means of

doing so was somewhat complex. The Committee agreed that no amendment to the 1983 Measure was needed in response to the Archdeacon's submission on this matter.

Paragraphs 1, 4 (renumbered 9) and 7 and 8 (renumbered 18 and 20)

364. No proposals or submissions were received and no amendments were proposed to paragraphs 1, 4 (renumbered 9) and 7 and 8 (renumbered 18 and 20) of Schedule 5 and the Committee agreed these paragraphs should stand part of Schedule 5.

Paragraph 2

365. Amendments were made to paragraph 2 to produce consistency of wording with the 1983 Measure (see footnote 4 to item 90 above) and a further amendment was made to paragraph 2 to substitute the words "pastoral (church buildings disposal) scheme" for the words "pastoral (church disposal) scheme" (see item 138 above).
366. The Committee agreed that paragraph 2 (as amended) should stand part of Schedule 5.

New paragraphs 3, 4 and 5

367. Section 24 of the 1983 Measure made it possible for a pastoral scheme to provide for the designation or selection of the first incumbent of a new benefice. The Commissioners proposed the inclusion of a power of selection as an alternative to the existing power of designation in the 1983 Measure in the case of a pastoral scheme which did not create a new benefice but established a new team or group ministry, and for a power of designation or selection where the scheme provided for one or more parishes to be transferred to another benefice, and where the benefice was vacant at the time. Mr Paul Lewis explained that the Commissioners' request reflected the modern trend to change existing benefices rather than create new ones. He stressed that the power to provide for designation or selection would continue to be used sparingly to assist the bishop in making long term plans for ministry in the parishes involved and ensuring that, where there was substantial pastoral reorganisation affecting a vacant benefice, a new incumbent was appointed as soon as possible.
368. The Steering Committee proposed an amendment to Schedule 5 to insert new paragraphs 3, 4 and 5 into the Schedule. Mr Paul Lewis confirmed that the Commissioners were content that this amendment would give effect to what they were requesting.
369. The Committee agreed that this amendment should be made.

New paragraph 6 (and deletion of original paragraph 3)

370. Mr Frank Field MP spoke to the CCT's submission that a new provision should be inserted in section 44 of the 1983 Measure that would give the CCT the power to provide advice, support and assistance to parishes whose churches were of sufficient

quality to qualify for vesting in the CCT, in identifying and developing wider community use of those churches before (and as an alternative to) their closure for regular public worship.

371. Mr Field explained that the CCT had been encouraged in this by recommendation 47 of *A Measure for Measures*, which had called for “better liaison between dioceses and the CCT during the use seeking period [i.e. after closure] on the repair of highly listed closed churches which are potential [CCT] vestings”. Paragraph 4.44 of this report had pointed out that section 44(8) of the 1983 Measure already permitted the CCT to contribute to the cost of care and maintenance of such churches during the use seeking period and that this was to be encouraged “in the hope of reducing the eventual repair cost to the CCT on vesting”. In its submission the CCT was now seeking to extend this principle of pro-active involvement back to the period before a church (of sufficient quality) was closed for regular public worship. This could save the CCT money, in the long term, by avoiding unnecessary vestings. The CCT was doing no more than seeking an enabling power that would allow it, potentially, and resources permitting, to share its expertise at an earlier stage. The Follow-Up Group had noted that this raised new issues and had not been recommended by *A Measure for Measures*; because of this the Follow-Up Group did not consider it suitable for inclusion in the draft legislation at that stage, but recognised that it remained open to the Trust to raise the matter with the Revision Committee” (GS 1597-99X, page 15). This was what the CCT had done in its written submission.
372. Mr Field and Mr Truman emphasised that the CCT would need to identify carefully the resources that it could devote to this activity and that they would be very limited, particularly at the start. However, if early involvement was a success it could eventually free up more resources for use in this direction as savings were made on vestings that might otherwise have taken place. Mr Truman underlined that the CCT saw itself as working collaboratively in this, with the Commissioners. It also wished to work together with local communities, trusts and English Heritage in finding ways (‘capacity building’) for churches that might otherwise come to the CCT to remain in use as places of regular public worship or, if not, for alternative uses to be found²⁴. Mr Field concluded by saying that this proposal would help modernise the role of the CCT so that it fitted better with the position as it was now rather than with the position as it stood when the Redundant Churches Fund was founded in 1969.
373. The Archdeacon of Lewisham asked whether the ‘early involvement’ of the CCT would be simply a matter of providing extra advice, support and possibly resources to a parish or whether it would become something that a parish might have to engage in to avoid the closure of its church for regular worship. Mr Field replied that as far as the CCT was concerned it would be the former and any subsequent decision on closure would remain a matter for the Commissioners. Mr Nigel Spraggins asked why the CCT was seeking a new power under the 1983 Measure; could it not work directly with parishes without that? Mr Field replied that the CCT would not wish to operate independently of, or outside, the parameters of the 1983 Measure; rather it

²⁴ Both Mr Field and Mr Truman cited examples of churches where vesting might have been avoided if a similar approach had been adopted in the past, mostly from the early days of the Redundant Churches Fund (as it was then) some of which were now candidates for de-vesting.

would want to work collaboratively with the Commissioners (who could ask it to become involved), as well as working with other bodies if applicable - the CCT, along with other bodies, was looking into setting up a sort of 'ambulance service' for churches - and to do that it needed additional powers under the 1983 Measure.

374. Mr Truman wished to lay stress on the fact that the CCT's potential involvement would be restricted to churches of a quality that would warrant vesting in the CCT. He noted that in its comments on the CCT's proposal the DCMS had "no objection to this" and had recognised that this "would be a cost-effective means of reducing future burdens on the CCT as long as the power, as per the [CCT's] suggested wording, enabled resources to be expended only where the building is considered to be of vestable quality". Mr Truman noted that DCMS recognised that this enabling power would support the position of the Government, which he was sure everyone shared, that the best means of preserving buildings is for them to remain in use.
375. The Committee was advised that that section 44(4) of the 1983 Measure laid down the statutory object of the CCT, namely "the preservation, in the interests of the nation and the Church of England, of churches and parts of churches of historic and archaeological interest or architectural quality vested in the Trust by this Part [of the 1983 Measure], together with their contents so vested", and questioned Mr Field on whether the new role that the CCT was requesting, extending to involvement with churches before their closure, would fall within that objective. Mr Field said that it would, as by freeing up funds it would increase the means by which the CCT could fulfil that object (which would remain unchanged). Ms Paula Griffiths asked how the CCT would see its new role fitting in with the work of other bodies that were involved in such work. Mr Field repeated that the CCT would not seek to act independently but rather with and through the Commissioners, to provide support for local initiatives directed to keeping churches in use for regular worship²⁵.
376. Canon Linda Jones was concerned that the involvement of the CCT could raise false hopes in vulnerable and hard-pressed parishes that were struggling to prevent their church being closed. Mr Field recognised that this might be a danger if the CCT were proposing to act alone, but it was not, rather it would only get involved in co-operation with the Commissioners.
377. The Worshipful Timothy Briden noted that section 44(9A) of the 1983 Measure already provided for the CCT to give to the Commissioners (and the Advisory Board, to be amended by the draft Measure as it then stood to the Council for the Care of Churches), inter alia, information and advice on estimated costs of repair and maintenance of any church (or part of a church) which was proposed to be vested in the CCT or which the Commissioners considered was likely to be vested or proposed to be vested in the CCT. He asked whether this section already gave the CCT the framework for co-operation it was seeking. Mr Field replied that this section dealt only with estimated costs of vesting, and thus did not cover what the CCT was

²⁵ The new provisions of the Pastoral (Amendment) Measure, which when in force would allow for the leasing of parts of churches for alternative uses while maintaining the church's primary function as a place of worship, were cited here.

seeking; the CCT wished, in co-operation with the Commissioners, to be able to assist parishes before vesting was even contemplated or needed to be considered.

378. The Committee had concerns with this submission, most notably over the limited resources that the CCT could bring to bear and over the degree of expertise that the CCT would be able to offer parishes on the functioning of churches as ‘working’ parish churches. These two factors led the Committee to fear that the involvement of CCT, however well intentioned, might raise false expectations in the parishes concerned. It was noted that the CCT had repeatedly stressed that it would work only through the Commissioners; however, once the Commissioners became involved it would probably be too late to achieve the end that the CCT was seeking (i.e. to avoid closure and vesting). Mr Nigel Spraggins, from a diocesan perspective, also expressed some concern at parishes having to deal with too many bodies that might potentially get involved. He shared the concerns of others over resources and false expectations and stressed that any involvement of the CCT would need to be with the prior agreement of the diocesan pastoral committee (as well as the Commissioners), something that the CCT had not mentioned in either its written or its oral submissions.
379. The Committee noted that the CCT’s proposed amendment was directed to giving the CCT a pro-active role, involving the power to assist parishes directly, albeit with the agreement of the Commissioners. As the Committee had some anxieties about this approach, it felt that a better way forward might be to widen the scope of the existing power of the CCT to give advice under section 44(9A) of the 1983 Measure so that it extended the scope of the possible advice and encompassed the period before any vesting in the CCT was contemplated. The Committee was agreed that this would need to be done in such a way as to ensure that the Commissioners would keep the initiative over any contact that the CCT had with the parish so that the CCT’s new role would be reactive and brought into play only where the Commissioners considered it appropriate and the diocesan pastoral committee agreed.
380. The Steering Committee prepared a draft amendment on that basis. This would involve inserting a new sub-section (9B) into section 44 of the 1983 Measure. The new sub-section would apply in cases where the Church Buildings Council had prepared a report under section 3(8) of the 1983 Measure (on the historic interest, architectural quality etc. of a church in respect of which the pastoral committee was considering whether to make a recommendation for closure for regular public worship, and the other matters set out in section 3(8)) and the Commissioners considered, after consulting the Council, that if the church was so closed and no suitable or appropriate alternative use could be found for it, it was likely to be of a quality such that it ought to be preserved in the interests of the nation and the Church of England (i.e. one of the conditions for vesting in the CCT). In those circumstances, the Commissioners could, with the consent of the diocesan pastoral committee, request the CCT to give advice to them and, if specified, advice or assistance of the kind laid down by sub-section (9B) to a specified person or body, subject to any conditions or limitations that the Commissioners might specify. The advice and assistance involved would be in identifying and developing proposals for use of that church, or any part of it, which would be consistent with the primary use

of the church as a whole as a place of worship and must have the object of ensuring the continuance of that use. Finally, a further sub-section (9C) would need be inserted into section 44 of the 1983 Measure, to give the CCT power, notwithstanding sub-section (4), to give the advice and assistance described in the new sub-section (9B). Standing Counsel explained that this new sub-section was required because under sub-section (4) the sole statutory object of the CCT was the care etc. of churches that were vested in it. Fulfilling a request under sub-section (9B) did not fall within that objective, nor was the sub-section required in order to fulfil it, and the amended section therefore had to make clear that, notwithstanding that, the CCT had power to give such advice and assistance as was specified in sub-section (9B).

381. The Committee consulted the CCT and DCMS on these proposed amendments and DCMS had “no comments” to make. As for the CCT, its Chief Executive reported that he had contacted a small number of the CCT’s trustees all of whom were “happy with the wording as it stands”, subject to any requests for advice from the Commissioners being made “in the context of available resources and budget”, something that the CCT would be discussing with the Commissioners directly, as it did not come within the scope of this legislation.
382. The amendments to Schedule 5 proposed by the Steering Committee to section 44 of the 1983 Measure also retained what was originally paragraph 3 of Schedule 5 of the draft Measure, now re-numbered as paragraph 6(a), with changes consequential on the change in the name of the new statutory advisory body, and also introduced into Schedule 5 (as paragraph 6(b)) the amendment to section 44 of the 1983 Measure regarding the maximum number of trustees of the CCT, which had originally appeared in clause 58 of the draft Measure (see item 288 above).
383. The Committee agreed to these amendments being made.

New paragraphs 7, 8 and 10

384. The Steering Committee proposed amendments to insert new paragraphs 7, 8 and 10 into Schedule 5. These paragraphs contained amendments to sections 52, 53 and 57 of the 1983 Measure, and related to the partial funding of the CCT by the Commissioners. They were confined to simplifying the existing processes, including the provisions for making the triennial funding orders, and would give effect to a proposal for this to be done which had been received from the Commissioners. (One effect would be that the order would in future set out the total figure payable to the Trust, on the basis that this would come from the Commissioners’ general fund to the extent not provided for by the amount payable from the Commissioners’ one third share of sale proceeds.) Mr Paul Lewis confirmed that the Commissioners were content with the amendments.
385. The Committee agreed that these amendments should be made.

Paragraph 5 (renumbered 11)

386. Amendments were made to sub-paragraph (a) to substitute the words “pastoral church buildings scheme” for the words “pastoral church scheme” and to substitute the words “pastoral (church buildings disposal) scheme” for the words “pastoral (church disposal) scheme” (see items 90 and 138 above).
387. The Committee agreed that paragraph 5 (renumbered paragraph 11) (as amended) should stand part of Schedule 5.

New paragraph 12

388. The Bishop of Exeter proposed an amendment to insert a new paragraph 12 into Schedule 5. This paragraph amended section 67 of the 1983 Measure to make it possible to impose suspension of presentation more than once during the same vacancy in a benefice (see items 302-09 above). The Committee agreed that this amendment should be made, with two abstentions.

New paragraphs 13, 14 and 19

389. The Bishop of Exeter proposed an amendment to insert new paragraphs 13, 14 and 19 into Schedule 5. These paragraphs amended the heading to section 68 and section 70 of the 1983 Measure and to Schedule 7 to that Measure, and were consequential on or related to the amendment to section 67 dealing with possible re-suspension of presentation (see item 302-09 above). The Committee agreed that these amendments should be made, with one abstention.

New paragraph 15

390. Mr Simon Parton, the diocesan secretary of Southwark, on behalf of his diocese and others, had proposed the repeal of sections 77 and 78 of the 1983 Measure. Section 77 required every diocese to hold a diocesan pastoral account, imposed a duty on every DBF, as soon as practicable after the end of each financial year, to prepare an account of moneys paid into or out of that account during that year, and required a copy of this account to be laid before the diocesan synod²⁶. Section 78 provided for the use of moneys in diocesan pastoral accounts to meet certain expenses incurred for the purposes of the 1983 Measure or schemes or orders made under it, and specified the ways in which surpluses could be used. Mr Parton saw the duty to hold a diocesan pastoral account and the other provisions as an “antiquated requirement”. He explained that the diocesan secretaries of eighteen other dioceses had supported his proposition that these sections should be repealed and only one diocese had expressed itself content with the status quo.
391. The Steering Committee reported that following further consideration of this matter by the Commissioners, and consultation with a number of dioceses, it had become

²⁶ The requirement to send to copies of the account to the Church Commissioners and the Archbishops’ Council had been removed by the Church of England (Miscellaneous Provisions) Measure 2005, which came into force on 1st June 2005.

clear that at least one diocese was strongly in favour of retaining the status quo, as it found that the obligation under section 77 was helpful, and it was possible that further investigations might reveal more dioceses taking the same view. In any case it was still unclear exactly what changes to the existing law the dioceses, as a body, would wish to see. It appeared that simply repealing section 77 would not necessarily achieve a satisfactory result, particularly from the Commissioners' point of view, and it might be necessary to provide for the Commissioners to hold a fund, albeit one restricted in amount, for each diocese, to meet those expenses incurred by the Commissioners which were at present to be paid out of the diocesan pastoral accounts. Therefore no definite proposals for amendment had been prepared by the Steering Committee. Rather what was proposed was that the Commissioners should carry out fuller consultation on the main issues, with the intention that amending provisions would be included in the next Miscellaneous Provisions Measure; if no consensus was reached, one way ahead might be to provide the dioceses with a choice between different options. Standing Counsel reported that any such alternatives to the existing sections 77 and 78 of the 1983 Measure were likely to be more complex than the current provisions.

392. However, the Steering Committee proposed that, to assist dioceses immediately, a new provision should be added to section 78(3), under which the diocese could transfer money in the diocesan pastoral account which was not needed or likely to be needed for the expenses and expenditure specified in section 78, to any account held by the DBF, or could transfer part of it to such an account and use it partly as provided in the existing section 78(3), and thus make it available for use as the DBF thought fit. The Steering Committee explained that it would be best to make this an additional provision, and to retain the existing purposes for which moneys in the account could already be used in those circumstances under section 78(3)²⁷, as it was possible that in some respects they were wider than the proposed new provision regarding the DBF.
393. The Steering Committee proposed an amendment to insert a new paragraph 15 into Schedule 5 to achieve this and the Committee agreed that this amendment should be made.
394. The Committee agreed that it did not wish to make any further amendments to sections 77 and 78 of the 1983 Measure in the present draft Measure, and endorsed the proposals for further consultation.

New paragraph 16

395. The Steering Committee proposed an amendment to insert a new paragraph 16 into Schedule 5. This ensured that the references to parish councils and parish meetings in renumbered clauses 36 and 45 (see items 120 and 143 above) would be construed as

²⁷ Namely applying the moneys, by way of grant or loan, towards the restoration, improvement or repair of churches and parsonage houses in the diocese, including redundant buildings vested in the diocesan board of financed pending a redundancy scheme taking effect, or to other purposes of the diocese or any benefice or parish in the diocese; applying the moneys by way of grant or loan for the benefit of other dioceses; or transferring the moneys to the capital or income account of the diocesan stipends fund.

referring to the civil parish rather than the ecclesiastical parish. The Committee agreed that this amendment should be made.

Paragraph 6 (renumbered 17)

396. An amendment was made to sub-paragraph (b) to substitute the words “Church Buildings Council” for the words “Council for the Care of Churches” (see footnote 21 to item 262 above).
397. An amendment was made to sub-paragraph (f) to substitute the words “pastoral church buildings scheme” for the words “pastoral church scheme” (see item 90 above).
398. Amendments were made to sub-paragraph (g) to substitute the words “pastoral church buildings scheme” for the words “pastoral church scheme” and to substitute the words “pastoral (church buildings disposal) scheme” for the words “pastoral (church disposal) scheme” (see items 90 and 138 above).
399. The Committee agreed that paragraph 6 (renumbered 17) (as amended) should stand part of Schedule 5.
400. The Committee agreed that Schedule 5 as a whole (as amended) should stand part of the Measure.

Schedule 6 – Transitional Provisions

401. The Committee noted that the transitional provisions in this Schedule related to the Dioceses Measure 1978 and in most cases provided for schemes or instruments that were still in operation, and proposals to create new suffragan sees that were under consideration, to take effect under the corresponding provisions of the new Measure. This Schedule also provided that area schemes under the 1978 Measure would continue in force until revoked by the diocesan bishop, with the consent of the diocesan synod, but that in the meantime the diocesan bishop, again with the consent of the diocesan synod, would have power to amend them.
402. No proposals or submissions were received and no amendments were proposed to any paragraphs of Schedule 6 and the Committee agreed that paragraphs 1 to 5 should stand part of Schedule 6 and that Schedule 6 as a whole should stand part of the Measure.

Schedule 7 - Repeals

403. No proposals or submissions were received and no amendments were proposed to Schedule 7 and the Committee agreed that Schedule 7 should stand part of the Measure.

The Long Title

404. The Committee agreed to an amendment being made to the Long Title to substitute the words “; to re-name” for the words “and for” after the word “committees” and to insert the words “and make new provision for it;” after the word “Churches”. This amendment was needed as a result of the decision to re-name the statutory advisory body to replace the Council for the Care of Churches and to take on the functions of the Advisory Board for Redundant Churches, and the provisions included in the draft Measure for that purpose (see footnote 21 to item 262 above).
405. The Committee agreed that the Long Title (as amended) should stand part of the Measure.

DRAFT AMENDING CANON NO.27

406. Mr Dudley Coates, whilst recognising that the provisions of this Amending Canon would amend the ‘ecumenical Canons’ (B43 and B44) only in so far as was required by the introduction of mission initiatives and to tie in with the provisions in the draft Measure for that purpose, noted that there was some support for wider amendment of these Canons from within the Church of England and from some of its ecumenical partners. The Steering Committee noted what Mr Coates had said but was agreed that this Amending Canon should remain restricted to those amendments necessary for the operation of mission initiatives. In its view the present draft legislation was not the appropriate vehicle for wider changes to the law on ecumenical activity. The Committee concurred.
407. Mr Frank Knaggs again expressed his concern that ‘vibrant’ Churches could be left outside of the ecumenical movement. The Committee noted what Mr Knaggs had said, and also noted that clause 47(5) of the draft Measure (as renumbered) would make it possible for a bishop’s mission order to make provision for ecumenical co-operation with Christian Churches which did not come within the provisions of the ‘ecumenical canons’ (see item 157 above). Subject to that, the Committee agreed that the present draft legislation was, again, not an appropriate vehicle for changes in the law on the issues to which Mr Knaggs referred.
408. No amendments were proposed to any paragraphs of the Amending Canon and the Committee agreed that paragraphs 1 to 8 should stand part of the Amending Canon.

DRAFT VACANCY IN SEE COMMITTEES (AMENDMENT) REGULATION

409. Mrs Joanna Monckton proposed an amendment to alter the representation on the Crown Nominations Commission of the diocese whose vacant diocesan see the Commission was considering. The Committee was advised that it could not properly make such an amendment, and the proposal for it was out of order, because it would not be relevant to the “general purport” of the draft regulation, as required by Standing Order 53(e). The draft regulation was confined to a single set of provisions setting up a “delaying mechanism” in relation to the filling of a vacant diocesan see pending the outcome of reorganisation proposals which would substantially affect the diocese” (the report of the Follow-Up group, GS 1597-1599X, paragraph 154),

whereas Mrs Monckton's proposed amendment addressed an entirely different matter. The Committee accepted this advice and agreed that Mrs Monckton should be informed of the position.

410. The representatives of *Fry an Spyrys* (see items 32-35 and 325-26 above) put forward a proposals relating to sub- paragraph (c) of the new paragraph 5A to be inserted into the Vacancy in See Committees Regulation 1993 by paragraph 4 of the draft Regulation. They opposed the provision giving the archbishop a discretion to continue to delay the filling of a vacancy in a see after any of the events set out in sub- paragraph (c) had taken place²⁸. They argued that allowing the archbishop a discretion in these circumstances would make it possible to “suspend” the appointment of a diocesan bishop indefinitely.
411. The Committee noted that as a matter of law, under the draft as it stood, the archbishop, was not required to revoke the direction in any of the circumstances specified in sub-paragraph (c) but was merely given a discretion to do so (the wording being “the Archbishop may, if he thinks fit, ...”), although the expectation was that, in most instances, he would do so. The Committee agreed that it would be better if, so far as possible, revocation was made a requirement. The Steering Committee therefore proposed an amendment to sub-paragraph 5A(c) to provide that the archbishop “shall” revoke his direction in relation to sub-paragraphs 5A(c). With regard to the application of this mandatory requirement to revoke the direction in cases under sub-paragraph 5A(c)(i) (i.e. where the reorganisation scheme had been confirmed by Order in Council), the Steering Committee explained that the only circumstance in which it would be inappropriate to remove the direction would be where the diocese was to cease to exist as a result of the confirmation of the reorganisation scheme (in which case appointing a new bishop would obviously make no sense); however, sub-paragraph 5A(c)(i) already excluded such cases. The Steering Committee also proposed an amendment to paragraph 5A(c)(i) to substitute the word “dissolving” for the word “abolishing” in order to make the terminology in the draft regulation consistent with that in the draft Measure.
412. The Committee agreed that these amendments should be made to the new regulation 5A(c) to be inserted into the Vacancy in See Committee Regulations 1993 by paragraph 4 of the draft regulation and that paragraph 4 (as amended) should stand part of the draft regulation.
413. Given that the proposal from Mrs Monckton had been ruled out of order (see item 409 above), no proposals or submissions were received on paragraphs 1 to 3 of the draft regulation and no amendments were made. The Committee agreed that paragraphs 1 to 3 should stand part of the draft regulation.

On behalf of the Committee
Edmund Marshall (Chair)

1st June 2006

²⁸ The events in question were that the reorganisation scheme concerned (other than one abolishing the diocese) had been confirmed by Order in Council; that the Synod had decided not to approve the scheme; that the Diocese Commission had informed the Archbishop that it had decided not to proceed with the scheme; or that the Dioceses Commission had informed the Archbishop that it had decided it would not be appropriate to delay the filling of the vacancy any further.

Appendix I**Proposals for amendment and submissions****Part 1****Synod members who made proposals for amendment or submissions in time**

<i>Name</i>	<i>Constituency and Synod Number</i>
*^Ainsworth, the Reverend Canon Michael	Manchester (161)
Arrand, the Venerable Geoffrey (the Archdeacon of Suffolk)	St Edmundsbury and Ipswich (204)
Atherstone, the Reverend Canon Hugh	Chichester (99)
Barker, the Reverend Canon Nicholas	Worcester (238)
Benfield, the Reverend Paul	Blackburn (72)
Cameron, the Right Worshipful Dr Sheila (QC) (the Dean of Arches and Auditor)	Ex-officio (456)
Colmer, the Venerable Malcolm (the Archdeacon of Hereford)	Hereford (132)
Flach, the Reverend Debbie	Europe (119)
*Hancock, the Venerable Peter (the Archdeacon of the Meon)	Portsmouth (187)
*Hawes, the Venerable Arthur (the Archdeacon of Lincoln)	Lincoln (144)
Ind, the Right Reverend William (the Bishop of Truro)	Bishops (42)
Johnston, Mrs Mary	London (355)
*Knaggs, Mr Frank	Newcastle (368)
Litten, Dr Julian	Chelmsford (281)
Mansell, the Venerable Clive (the Archdeacon of Tonbridge)	Rochester (195)
Monckton, Mrs Joanna	Lichfield (338)
Presland, Mr Andrew	Peterborough (381)
Saxbee, the Right Reverend Dr John (the Bishop of Lincoln)	Bishops (25)
Scott-Joynt, the Right Reverend Michael (the Bishop of Winchester)	Bishops (5)
*Scowen, Mr Clive	London (358)
Smith, Mr Peter	St Edmundsbury and Ipswich (401)
*Sugden, the Reverend Canon Dr Christopher	Oxford (183)
Watson, the Reverend Andrew	London (160)
Williams, Mrs Shirley-Ann	Exeter (321)

* Attended a meeting, or meetings, of the Committee and spoke to their proposals for amendment in accordance with Standing Order 53(b).

- ^ Canon Ainsworth also attended the Committee, with the Bishop of Sodor and Man (see Part 2 below), on behalf of the Council for the Care of Churches.

Part 2 **Other proposals for amendment or submissions**

Non-Synod members or bodies

*Advisory Board for Redundant Churches	from Mr David Baker (Chairman)
>Chapman, Mr William	Prime Minister's Secretary for Appointments
Church Commissioners	from Mr Paul Lewis (Pastoral and Redundant Churches Secretary)
^Churches Conservation Trust	from Mr Crispin Truman (Chief Executive)
Coates, Mr Dudley	Methodist ecumenical representative on General Synod and observer to Revision Committee
Council for British Archaeology	from Dr Mike Heyworth (Director)
>Department for Culture, Media and Sport (Architecture and Historic Environment Division)	from Mr Jeremy Dann (Senior Policy Adviser)
Diocesan Secretaries	from Mr Simon Parton (Southwark Diocesan Secretary)
+English Heritage	from Mr Richard Halsey (Places of Worship Strategy Manager)
~ <i>Fry an Spyrys</i> (Campaign for Self-Government for the Churches of Cornwall)	from the Reverend Andy Phillips (Secretary)
Hall, Mrs Viviane	
Hemingray, Canon Raymond	Peterborough Diocesan Registrar
Institute of Historic Building Conservation	from Mrs Karen Holyoake (Consultations Secretary)
#Joint Committee of National Amenity Societies	from Dr Ian Dungavell (Secretary)

Submission from Synod member received out of time

Morrison, Mrs Gill	Peterborough (380)
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At the invitation of the Committee the following attended the Committee in order to speak to the proposals for amendment or submissions listed above:

- * Mr David Baker (Chairman), the Right Reverend Clive Young (the Bishop of Dunwich) (Board member) and Dr Jeffrey West (Secretary).
- ^ The Right Honourable Frank Field MP (Chairman) and Mr Crispin Truman (Chief Executive).
- + Mr Richard Halsey (Places of Worship Strategy Manager, English Heritage).
- ~ The Reverend Andy Phillips (Secretary) and Professor Ken MacKinnon.
- # Dr Ian Dungavell (Secretary of the Joint Committee of the National Amenity Societies).
- > Mr William Chapman and the DCMS were invited to attend or send representatives but did not think it necessary to do so and sent further written submissions to the Committee instead.

The following, who had not put in submissions, also attended meetings of the Committee at the invitation of the Committee:

- <= The Reverend Canon John Alderman (Patronage Secretary, CPAS).

The Reverend Jeremy Caddick (Dean of Emmanuel College, Cambridge).

The Very Reverend Nicholas Coulton (formerly the Dean of Newcastle and currently Sub-Dean of Christ Church, Oxford) representing the Association of English Cathedrals.
- <= Mr David Healey (Communications Manager - Intercontinental Church Society).

The Right Reverend Graeme Knowles (the Bishop of Sodor and Man) (Chair of the Council for the Care of Churches).
- = The Reverend John Masding (Chairman of the English Clergy Association).
- <= The Reverend Canon John Moore (Council member - Intercontinental Church Society).
- = Mr David Morgan (General Secretary of the Guild of All Souls and Chair, Chelmsford Diocesan Board of Patronage).
- < CPAS/ Intercontinental Church Society had indirectly made a submission to the Committee via a proposal for amendment received from the Bishop of Winchester.

- = Representing a member of the patrons' consultative group - a group to which the Archdeacon of the Meon had referred in his proposal - which is an informal interest group including amongst its membership: the Church Society, the Church Union, CPAS, Cost of Conscience, the English Clergy Association (which in turn has private patrons amongst its membership), Forward in Faith, Guild of All Souls, and the Society for the Maintenance of the Faith.

Appendix II**A summary of the proposals and submissions received which raised points of substance and of the Committee's consideration of them**

* An amendment (or amendments) based wholly or in part on the original submission was/ were proposed by Steering Committee.

Proposal made in Committee by a member of the Committee.

Part one**Draft Pastoral, Dioceses and Mission Measure**

Clause of revised draft Measure (GS 1597A)	Summary of submission	Name	Committee's decision
General	Proper time should be given to consideration in committee.	The Archdeacon of Tonbridge	Accepted and implemented.

Part I – General Principle

1	Furthering the mission of the Church to be the paramount and first consideration.	Mr Clive Scowen	Not accepted.
	Mission to be overriding priority.	The Archdeacon of Hereford	Not accepted.

Part II – Provincial and Diocesan Structure

2	Change should not become managed decline.	Mr Frank Knaggs	Concurred.
3	Power for Dioceses Commission to vary number of provinces by scheme.	The Reverend Paul Benfield Mr Frank Knaggs Mr Clive Scowen	Not accepted.
	Dioceses Commission in publishing proposals to alter the number of provinces should also make recommendations as to how the change was to be achieved.	Steering Committee	Accepted.
4	Re-draft subsections (3)(a) and (c) to clarify application to dioceses (plural).	Steering Committee	Accepted.
	Provision for transfer of part of diocese to diocese in another province by scheme.	Mr Clive Scowen*	Accepted.

5	No proposals or submissions received and no amendments proposed.		
6	<p>Same consultation process with interested parties where Dioceses Commission acts proactively to prepare draft scheme as where it prepared draft scheme after having first received proposals from a bishop.</p> <p>Diocese affected by scheme to have right to make personal representations to Dioceses Commission when proposal discussed.</p>	<p>Steering Committee</p> <p>The Bishop of Lincoln*</p>	<p>Accepted.</p> <p>Accepted – representatives of diocesan synod to have right to make oral representations, irrespective of whether or not written representations made.</p>
7	<p>Delete clause 7(2) – contrary to Anglican ecclesiology – at very least special majorities should be required in General Synod.</p> <p>Any scheme should only go forward to General Synod if diocesan synod consented to it.</p> <p>Certain ‘hurdles’ to overriding local consent.</p> <p>Record to be kept of voting figures in diocesan synod and provided to General Synod members – General Synod members to receive draft scheme and details at least 28 days (preferably two months) in advance.</p> <p>Delete clause 7(2) altogether or exclude Cornwall from it.</p> <p>If diocesan synod does not consent to a scheme, the archbishop of the province is to “<u>be satisfied</u>” that requirements of (a) or (b) apply before authorising Dioceses Commission to lay scheme before Synod.</p> <p>Exclude cases from clause 7(2) where scheme proposed dissolution</p>	<p>Mr Clive Scowen</p> <p>The Bishop of Truro</p> <p>The Archdeacon of Tonbridge</p> <p>Mr Frank Knaggs</p> <p><i>Fry an Spyrys</i></p> <p>Steering Committee</p> <p>The Bishop of Exeter#</p>	<p>Neither deletion nor special majorities accepted.</p> <p>Not accepted.</p> <p>Not accepted.</p> <p>Not accepted.</p> <p>Not accepted.</p> <p>Accepted.</p> <p>Not accepted.</p>

	of diocese and diocese did not consent.		
8 and 9	No proposals or submissions were received and no amendments proposed.		
10	Duty to consult all elected Synod members affected by scheme prior to temporary reallocation of seats.	Mr Clive Scowen	Not accepted.
11 and 12	No proposals or submissions were received and no amendments proposed.		
13	Express provision for permanent/ indefinite area schemes and area jurisdictions and areas. Dioceses Commission to be notified of any instrument of delegation to suffragan or assistant bishop. Should be a power to delegate by instrument to duly commissioned assistant bishop.	Mr Clive Scowen Steering Committee. Steering Committee.	Not accepted. Accepted. Accepted.
14	Dioceses Commission to be notified of delegations under this section.	Steering Committee	Accepted.
15	Powers of collation – where delegated to suffragan – should continue to be exercised by suffragan during vacancy in diocesan see.	Mr Clive Scowen	Not accepted.
16	No proposals or submissions received and no amendments proposed.		
17	Remove requirement for consecration to episcopal orders to be to a see. Bishop should consult bishop’s council and standing committee instead of diocesan synod on whether a suffragan see should be filled. Bishop should be able to consult with diocesan synod, or bishop’s council, as he thinks fit. If bishop considers matter urgent, and not practicable to consult diocesan synod, he may consult bishop’s council instead. Sub-sections (2) to (7) should only	The Archdeacon of Lincoln The Bishop of Winchester Mr Clive Scowen Steering Committee Mr Clive Scowen	Not accepted. Not accepted. Not considered, as Mr Scowen supported Steering Committee proposal (see below). Accepted. Not accepted.

	apply where Dioceses Commission conducting review or preparing scheme. A 'fast-track' procedure to by-pass clause 17 in certain circumstances.	Mr Peter Smith	Not accepted.
18	No proposals or submissions received and no amendments proposed.		
19	Delete requirement for consent of Dioceses Commission. Remove involvement of the Church Commissioners and copy of final scheme to be sent to Dioceses Commission rather than Commissioners.	Mr Clive Scowen Steering Committee	Not accepted. Accepted.
20	New provision for concept of 'shared administration' to include diocesan statutory bodies.	Steering Committee	Accepted.
21 and 22	No proposals or submissions received and no amendments proposed.		

Part III – Procedure for making pastoral schemes and orders and pastoral church buildings schemes

General points	Reassurance that rights of patrons not to be lost in pastoral reorganisation.	Mrs Gill Morrison	Reassurance given.
	Alternative drafting to that proposed, with two versions of Part I of 1983 Measure set out in full in 1983 Measure.	Mr Clive Scowen	Not accepted.
	Pastoral schemes should be assimilated into pastoral orders, with procedure for latter applying.	Mr Clive Scowen	Not accepted.
	Commissioners not to have a role in validating and making pastoral schemes and orders – proposed a new tribunal to hear representations.	Mr Clive Scowen	Not accepted.
23	Schemes not involving closure of church to continue to be drafted and published by Commissioners.	Mr Frank Knaggs	Not accepted.
(and in certain other clauses)	"Pastoral church schemes" should be renamed "pastoral church buildings schemes".	Steering Committee	Accepted.

24 - 27	No proposals or submissions received and no amendments proposed.		
28	Concern at removal of requirement to inform interested parties at same time as draft proposal sent to Commissioners prior to preparing scheme. Delete “to their representative” in section (6)(5) of 1983 Measure.	Mr Frank Knaggs Steering Committee.	Content with current provision. Accepted.
29	Who would determine what is a minor drafting amendment?	Mr Clive Scowen*	Amendment made so Commissioners would determine.
30 - 31	No proposals or submissions received and no amendments proposed.		
32	Disappointed that recommendation 35 of <i>A Measure for Measure</i> not taken forward. A negative (‘deemed’) consent procedure for ‘shortened procedure orders’.	Mr Clive Scowen* Church Commissioners*	Point met (see below) Accepted.
33 – 35	No proposals or submissions received and no amendments proposed (only consequential amendments made).		
36	Civil parish council in which any church proposed to be closed for regular public worship is situated to be an interested party to be consulted by diocesan pastoral committee before it makes recommendations to bishop on proposals for pastoral church buildings scheme or at least have right to be informed.	Mr Peter Smith*	Agreed to civil parish being an interested party or, if no civil parish council, to chairman of civil parish meeting being interested party instead.
37	No proposals or submissions received and no amendments proposed.		
38	Right to make oral representations to Commissioners to be enshrined in draft Measure. Delete “to their representative” in section (6)(5) of 1983 Measure.	Mr Clive Scowen Steering Committee	Not accepted. Accepted.
39	No proposals or submissions received and no amendments proposed.		

Part IV – Church buildings closed for public worship

	Helpful if way could be found to enable scheme to vest building in diocesan board of finance in trust for PCC, retaining possibility for fresh provision for its future by	Church Commissioners	Withdrawn.
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	amending scheme.		
40	No proposals or submissions received and no amendments proposed (only consequential amendments made).		
43	No proposals or submissions received and no amendments proposed (only consequential etc. amendments made).		
44 (and in certain other clauses)	“Pastoral (church disposal) schemes” should be renamed “pastoral (church buildings disposal) schemes”.	Steering Committee	Accepted.
45	Changes in procedures for making pastoral (church buildings disposal) schemes.	Church Commissioners*	Accepted: bishop consulted slightly later; Commissioners have discretion over consultation with ‘advisory body’ over any proposed architectural or structural changes; Commissioners; afford opportunity to persons to make oral representations and have power to extend representation period.
46	No proposals or submissions received and no amendments proposed (only consequential, etc. amendments made).		

Part V - Mission

General	Organisational and conceptual shift involved.	Mr Dudley Coates	Noted, but proposals compatible with Anglican ecclesiology.
	Lead to more permeable boundaries between Churches; in mission orders participating in LEPs, bishops constrained in ecumenical partners.	Mr Frank Knaggs	Noted; provision already included for ecumenical cooperation other than in LEP, and with Churches not covered by ecumenical Canons.
	Take into account role of mission agencies in new church initiatives.	The Reverend Debbie Flach	Matter for the Code, but see also provisions as to patrons below.
Ecumenical involvement	Concern over requirement for bishop to consult other Churches etc. as he thought fit.	Mr Dudley Coates	Dealt with by new clause 47(8) – see below.
	Ecumenical dimension to be	Mr Dudley Coates*	Accepted (see below,

	incorporated into role of Visitor and to be referred to in procedure for variations to mission orders.		clauses 47(5) and (8), 49(3) and 50(3)(7) and (8)).
Involvement of patrons	Bishop to be required to consult registered patrons or other bodies before making a mission order, if they appeared to him to have an interest or likely to be affected. The Visitor to be under similar requirement on review of mission order.	The Archdeacon of the Meon	Already contains general provision for consultation; however amendments agreed to alleviate concerns (see below, clauses 47(6)(b) and (7)).
47(1)	Create a ‘mixed economy’ in who could initiate mission initiative.	The Reverend Andrew Watson	No amendment necessary to achieve this.
47(5)	Mission order may include a “co-operation provision” for the participation of the mission initiative in LEP, for other ecumenical co-operation with other Churches and/ or for collaboration with any religious organisation	Steering Committee	Accepted.
47(6)	Reverse order of subsections (a) to (c) so consultation comes before consent.	Steering Committee	Accepted.
47(6)(b) and (7)	PCC(s) and registered patron(s) to be deemed to have an interest in a proposed mission order. Bishop’s decision on consultation in these and all cases based on whether interest/ likely effect is ‘significant’; in assessing significance Bishop to have regard to objective of initiative.	Steering Committee	Accepted.
47(6)(c)	Bishop should consult pastoral committee, not be required to obtain its consent. Grounds for pastoral committee denying consent restricted to mission (or accept Mr Presland’s proposal).	Mr Andrew Presland Mr Clive Scowen	Not accepted. Not accepted.
47(8)	Where co-operation provision proposed, duty on the bishop to consult with the appropriate authorities of other Churches etc. on this.	Steering Committee	Accepted.
47(11)	Involvement of the laity in consultation process before	Mrs Shirley-Ann Williams	Not accepted, as based on a misunderstanding of

	authorisation of mission order providing for minister to exercise his/ her ministry in a place without consent of minister with cure of souls.	Mrs Mary Johnston	what was proposed.
47(15)	Delete or amend if meant woman priest could not preside etc. in a parish affected by a mission initiative, if parish had passed a resolution under 1993 Measure.	Mr Clive Scowen	Not accepted. Needed to confirm no exception to 1993 Measure. Legal position explained in opinion (appendix V).
48	“Visitor” a confusing title – find alternative.	Mrs Viviane Hall	Not accepted.
49(2)(f)	Could affect freehold status of person with cure of souls.	The Reverend Paul Benfield	Not correct, so no action required.
49(2)(g)	If lay person appointed, must be a confirmed communicant member of Church of England.	Mr Peter Smith	Not accepted.
49(3)	Where a co-operation provision in place, the bishop(s) and Visitor to discharge all their functions in this Part after consultation with the appropriate authorities of each Church or religious organisation participating in LEP or which was otherwise concerned.	Steering Committee	Accepted.
49(9)	Leader or leaders’ signature to be required to vary mission order or supplementary instrument.	Mr Clive Scowen	Not accepted.
50(3)	Bishop to be given power to direct that Visitor’s report sent to other persons or bodies.	Steering Committee	Accepted.
50(7)	Drafting difficult to follow and arguably ambiguous.	Mr Clive Scowen*	Accepted and re-drafted.
50(8)	In co-operation provision in LEP only, power to provide for report made by the Visitor to be made to, and functions regarding review performed by, ‘a body of persons’ including bishop(s) and representatives of the other Churches; if so, any of existing functions of the Visitor to be performed on behalf of bishop(s) to be performed, instead, on behalf of that body.	Steering Committee	Accepted.
51	Code needs to comment on imaginative use of existing legislation.	Mr Andrew Presland	Noted.

Part VI – Pastoral and Church Uses Functions

52	<p>Pastoral committee should be renamed “pastoral and mission committee”.</p> <p>Pastoral committee should be renamed “mission committee” or “mission and pastoral committee”</p>	<p>The Archdeacon of Hereford (and Mr Timothy Allen#)</p> <p>Mr Clive Scowen</p>	<p>Not accepted.</p> <p>Not accepted.</p>
53	<p>How would subsections (2)(a) and (d) work?</p> <p>Concern that subsection (3)(d) ignored responsibilities of incumbent, churchwarden and PCCs and could be seen as attempt at diocesan control.</p> <p>Amend wording to “within the jurisdiction” of the consistory court and “within the functions” of DAC.</p>	<p>Mr Frank Knaggs</p> <p>The Reverend Paul Benfield*</p> <p>The Dean of the Arches and Auditor</p>	<p>No problem identified.</p> <p>First concern misplaced; on second, general concern not accepted, but substituted “maintain an overview” for “exercise oversight”.</p> <p>Accepted.</p>

Part VII – Other Provisions

NSM as incumbent	<p>Law should be changed so that bishop may declare that an NSM is to be appointed incumbent.</p> <p>As ‘received learning’ was that NSMs cannot become incumbents, allow an incumbent to renounce benefice income and augmentation. Include express provisions for NSM incumbents.</p>	<p>The Reverend Canon Hugh Atherstone</p> <p>Mr Clive Scowen</p>	<p>Not needed, as no legal impediment in current law to this happening.</p> <p>Based on a false premise – see above.</p>
Operation of teams and groups	<p>Recommendation 20 of <i>A Measure for Measures</i> should be implemented – restrict legislation on team ministries to responsibilities of team members, patronage and property.</p> <p>Recommendation 21 of <i>A Measure for Measures</i> should be implemented – interim provisions for representation of laity.</p>	<p>Mr Clive Scowen</p> <p>Mr Clive Scowen</p>	<p>Not accepted.</p> <p>Not accepted.</p>

Priests-in-charge	Parishes and patrons should have say in appointment.	Mr Frank Knaggs	No action required.
Patronage	Protect rights of patrons in relation to freehold.	Mrs Gill Morrison	A matter for clergy terms of service drafting group.
	More pro-active approach in contacts with patrons.	Mrs Gill Morrison	No action required, in view of Patronage (Benefices) Measure 1986.
54 (and in certain other clauses and Long Title)	Rename Council for Care of Churches as “Council for the Care of Church Buildings”.	The Archdeacon of Hereford	Not accepted
	Rename Council as “Church Buildings Council”.	The Reverend Simon Bessant#	Accepted.
	Retain the Advisory Board for Redundant Churches as currently constituted and with its current functions – abolition based on a misplaced vision of a single source of heritage advice, which prevents proper separation of functions and interests.	Advisory Board for Redundant Churches	Not accepted.
	Concerns about impartiality and independence of advice that would come from Council for Care of Churches – under duty to have regard to mission.	English Heritage	Met by SAC with the independent strand as a voting majority reporting directly to Commissioners (and CCT), and <u>having due regard</u> to mission.
	Keep Advisory Board, which satisfactorily provided independent advice. Council would not have capacity of the Board.	Joint Committee of National Amenity Societies	Not accepted.
	Retain some ‘independent’ advice on potential vestings in CCT.	Dr Julian Litten	Met by majority ‘independent strand’ on SAC.
	Concerned at proposal to abolish Advisory Board.	Council for British Archaeology	Noted.
Advisory Board built up respect from external bodies; essential that similar provision for advice provided by successor.	Institute of Historic Building Conservation	Agreed and provided.	

	Interested in whether Council is in position to cover all interests involved in future of church buildings. Existing Council for the Care of Churches to cease to exist when the new statutory body comes into existence.	Society of Antiquaries of London. Steering Committee	Noted. Accepted.
55	New wording “judges and registrars of the ecclesiastical courts”. Express provision for Council for Care of Churches to have right to give evidence in consistory court in relation to faculty applications. In subsection (1) reverse order of (d) and (c) and alter wording of (d), (2)(a) and (4)(a)(i).	The Dean of the Arches and Auditor The Reverend Canon Michael Ainsworth The Archdeacon of Hereford	Accepted. Not accepted. Not accepted.
56 - 57	No proposals or submissions received and no amendments proposed (only consequential amendments made).		
58	Pastoral schemes should be assimilated to pastoral orders etc.	Mr Clive Scowen	Not pursued - matter already decided (see Part III – general points)
Deleted 58	Delete amendment to procedure for appointing CCT trustees which would require Archbishops, before submitting their advice on the appointment of trustees, to consult Commissioners and the Secretary of State.	Churches Conservation Trust (and Mr Timothy Allen#)	Accepted.
59(4)	A form of ‘sliding scale’ for representation of team vicars on patronage board choosing a team rector. Subsection (4) not required.	The Reverend Canon Nick Barker Mr Clive Scowen	Not accepted. Not accepted.
59(8)	Transfer of power to team council unacceptable and subsection (8) should be deleted.	Mr Clive Scowen	Not accepted.
59(9)	‘Interim provisions’ in a pastoral scheme (or instrument) dealing with representatives of laity of congregations at different churches etc. on PCCs of newly created parishes to expire automatically	Church Commissioners*	Accepted.

	after five years, or any lesser specified period.		
60	Amendment needed on representation of DBF on pastoral committee for meeting regarding compensation of clergy, now that no longer requirement for one member of pastoral committee to be appointed by and a member of DBF.	Church Commissioners*	Accepted - DBF to nominate a person to represent its interests on pastoral committee at any such meeting; person could, but need not, be a member of pastoral committee; if not, would be entitled to be present throughout and speak but not vote.
61	Further provision to ensure that assignment of special cure or responsibility to assistant curate in team ministry would be without prejudice to any duties or responsibilities of any member of team chapter or other member of team.	Steering Committee	Accepted.

Part VIII - Miscellaneous

Renewal of suspension of presentation	Make clear on the face of the Measure whether or not it is possible under existing law for power of suspension to be exercised for second time during same vacancy.	Canon Raymond Hemingray Church Commissioners	Changed existing position - see paragraphs 12-14 and 19, Schedule 5.
	Further review of legal provisions on suspension of presentation.	Mr Frank Knaggs	A matter for clergy terms of service drafting group.
62	Definition of mission to be directed to evangelism.	Mr Frank Knaggs	Not accepted; content with current broad and inclusive definition.
	Inclusion of ecumenical element in definition of mission is important.	Mr Dudley Coates	Concurred.
63	Consequential amendments to two Measures, relating to amendments in Schedule 5 on re-suspension of presentation.	Steering Committee	Accepted.
64 - 66	No proposals or submissions received and no amendments proposed.		

Schedule 1 – The Dioceses Commission

New proposal	Support recommendation 6 of A <i>Measure for Measures</i> - every diocese to be represented by voting members on Commission when proposals affecting it (for abolition/substantial change of boundaries) discussed.	<i>Fry an Spyrys</i> Mr Timothy Allen#	Not accepted.
1 - 3	A wholly elected Commission - if appointed members, should be non-voting with advisory role only. Majority of membership should be elected, Chair and Vice-Chair to be appointed by Appointments Committee.	<i>Fry an Spyrys</i> Mr Frank Knaggs	Decided not to change membership provisions - introducing elected element for first time, and appointed element needed to maintain minimum level of expertise. Not accepted. Mr Knaggs did not wish to press proposal as to elected majority.
4 - 18	No proposals or submissions received and no amendments proposed.		

Schedule 2 - Contents of Reorganisation Schemes

1 - 2	No proposals or submissions received and no amendments proposed.		
3, 7, 8, 12 to 14 and 16	Had Charity Commission been consulted over implications for diocesan trust funds of diocesan mergers; would security of office (and of employment) of clergy and contractual employees of dioceses be maintained in a merger?	The Archdeacon of Tonbridge	Charity Commission would be consulted, but no reason to believe any objections would be raised; and second point already covered by Schedule 2.
4 and 5	What would happen to contracts entered into by cathedral that ceased to exist as such?	The Archdeacon of Tonbridge	Already covered by paragraph 18 of Schedule 2.
6	How abolition of any of five dioceses whose diocesan bishop was entitled to automatic seat in House of Lords would impact on that right.	Mr Frank Knaggs	Would create a lacuna that would need to be addressed in the remote eventuality of abolition of one of these dioceses.
9 – 11, 15, 17 and 18	No proposals or submissions received and no amendments proposed.		

Schedule 3 – Constitution and Procedure of the Pastoral Committee

1 – 4, 6 – 7 and 10 - 12	No proposals or submissions received and no amendments proposed.		
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5	Pastoral committee to have majority of elected members.	Mr Frank Knaggs	Not accepted.
8 and 9	Specific provision allowing delegation to archdeaconry sub-committee.	The Archdeacon of Suffolk	Already possible under these paragraphs.

Schedule 4 – The Church Buildings Council

	<p>Membership to have sufficient expertise, ‘independence’ and be authoritative – sufficient staffing and resources.</p> <p>More formal role for Secretary of State in nomination of ‘independent strand’ and how will this ‘minority’ act as independent element?</p>	<p>The Archdeacon of Tonbridge</p> <p>Mr William Chapman</p>	<p>Content that all these matters are adequately covered or not a matter for legislation.</p> <p>Provided for by nomination by Secretary of State and ‘independent strand’ to be voting majority on SAC (see below).</p>
1, 4 – 9, 11 – 13 and 22 - 26	No proposals or submissions received and no amendments proposed.		
2 and 10	<p>Clarification of appointment of four members after consultation with Secretary of State.</p> <p>Paragraph 2(a) - ‘independent strand’ (four members) to be nominated by Secretary of State; paragraph 10 - ‘nomination’ to be included in provision on casual vacancies.</p>	<p>DCMS</p> <p>Steering Committee</p>	<p>The four members to be nominated by Secretary of State.</p> <p>Accepted.</p>
2 and 3	<p>Membership to include expertise in entrepreneurial development of buildings etc.”.</p> <p>Membership to include “direct experience in dealing imaginatively and sensitively with development and management of buildings”.</p>	<p>The Reverend Canon Dr Christopher Sugden*.</p> <p>The Reverend Canon Michael Ainsworth*</p>	<p>New paragraph 2(f) - a person to be appointed with “expertise in the innovative use of churches and former churches, including their management and development”; paragraph 3 maximum of co-opted members reduced to two to keep maximum size of Council the same.</p>
14 - 21	<p>Establish a permanent statutory sub-committee of Council - the ‘Statutory Advisory Committee’ - to perform the advisory functions previously exercised by Advisory</p>	Steering Committee	Accepted.

	<p>Board – consist of ‘independent strand’ (four members), three other Council members appointed by Council and Chair of Council (to chair the SAC but not have a vote)). Council to be able to delegate other functions to, or seek advice of, SAC on other matters. SAC to report to Council on discharge of functions from time to time, and at least every six months or when so required by Council. SAC have a quorum of four, at least two from ‘independent strand’ and any person chosen to preside, in absence of Chair, would not have a second or casting vote, otherwise the SAC’s procedures same as full Council.</p>		
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Schedule 5 – Amendment of Pastoral Measure 1983

New proposals	<p>Some new mechanism for collaborative ministry (neither group nor team).</p> <p>Repeal of requirement to hold a diocesan pastoral account.</p>	<p>The Archdeacon of Lincoln</p> <p>Mr Simon Parton, on behalf of his diocese and others.</p>	<p>Not required; interchangeability of ministry possible under existing legislation.</p> <p>Not accepted pending further consultation by Commissioners with dioceses (see item 391 above).</p>
1, 9, 18 and 20	No proposals or submissions received and no amendments proposed.		
2, 16 and 17	No proposals or submissions received and no amendments proposed (only consequential amendments made).		
3, 4 and 5	<p>Allow for pastoral scheme to provide for selection of an incumbent, as an alternative to designating incumbent, when establishing team or group ministry, also to provide for selection or designation of incumbent of existing vacant benefice when parish(es) transferred to it.</p>	<p>Church Commissioners*</p>	<p>Accepted.</p>
6	<p>New power for the CCT to provide advice, support and assistance to parishes, whose churches were of vestable quality, to keep those churches in use as alternative to</p>	<p>Churches Conservation Trust*</p>	<p>For such churches only: power for Commissioners, after consulting the Council for Care of Churches on</p>

	closure.		vestable quality, with consent of diocesan pastoral committee, to request CCT to give advice to them and, if specified, advice or assistance to specified person or body, in identifying and developing proposals for use of that church, or any part, consistent with primary use of church as place of worship with object of ensuring continuance of that use; CCT given power to give this advice and assistance.
7, 8 and 10	Simplifying existing processes for the Commissioners' partial funding of CCT, including provisions for making triennial funding orders.	Church Commissioners*	Accepted.
11	No proposals or submissions received and no amendments proposed (only consequential amendments made).		
12 – 14 and 19	Amendment to Pastoral Measure to allow for a suspension of presentation to be exercised more than once during same vacancy and for filling of benefice under Patronage (Benefices) Measure to be thereby halted and for these procedures to be started again from beginning when second suspension period ends.	The Bishop of Exeter#	Accepted.
12(b) and (c)	New provision to ensure that notice given that suspension due to expire so that suspension period can be extended before it expires, if so desired.	The Bishop of Exeter#	Accepted.
15	Power for surplus moneys in diocesan pastoral account to be transferred to one or more other accounts held by DBF or applied or transferred partly to these other accounts and partly under existing provisions.	Steering Committee	Accepted.

Schedules 6 and 7 – Transitional Provisions and Repeals

	No proposals or submissions received and no amendments proposed.
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Part two**Draft Amending Canon No.27**

Paragraph of revised draft Amending Canon (GS 1598A)	Summary of submission	Name	Committee's decision
	Some support for wider amendment of 'ecumenical Canons' (B43 and 44) within Church of England and ecumenical partners.	Mr Dudley Coates	Noted; but this Amending Canon to remain restricted to amendments necessary for operation of mission initiatives.
	'Vibrant' Churches could be left out of ecumenical movement.	Mr Frank Knaggs	Noted; but (subject to clause 47(8) of draft Measure) not a matter for this legislation.
1 – 8	No amendments were proposed.		

Part three**Draft Vacancy in See Committees (Amendment) Regulation**

Paragraph of revised draft Regulation (GS 1599A)	Summary of submission	Name	Committee's decision
	The four diocesan representatives from diocese with vacant see appointed to Crown Nominations Commission should be two lay and two clergy (not a suffragan nor an archdeacon).	Mrs Joanna Monckton	Did not consider as ruled out of order – not within "general purport" (SO 53) of draft regulation.
1-3	No proposals or submissions received and no amendments proposed.		
4	Substitute "dissolving" for "abolishing" in 5A(c)(i). Oppose anything that would permit archbishop to continue delay in filling see after any of events in new paragraph 5A(c) had taken place.	Steering Committee <i>Fry an Spyrys*</i>	Accepted. In any of circumstances specified in 5A(c), archbishop required to revoke direction.

Appendix III Destination tables

Part one Draft Pastoral, Dioceses and Mission Measure

GS 1597 (as at First Consideration)	GS 1597A (as amended by the Revision Committee)
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Part I

1 - 2	1 - 2
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Part II

3(1) and (2)	3(1) and (2)
-	3(3)
3(3) – (5)	3(4) – (6)
4 - 12	4 - 12
13(1) – (15)	13(1) – (15)
-	13(16)
14 - 19	14 - 19
20(1) and (2)	20(1) and (2)
20(3)	-
-	20(3)
20(4)	20(4)
21 - 22	21 – 22

Part III

23 - 27	23 - 27
28(a) – (c)	28(a) – (c)
-	28(d)
29 - 31	29 - 31
-	32
32 - 34	33 - 35
-	36(a)
35(a) – (d)	36(b) – (e)
36 - 38	37 – 39

Part IV

39 - 43	40 - 44
44(a) and (b)	45(a) and (b)
44(c)	-
-	45(c) – (g)
45	46

Part V

46(1) – (4)	47(1) – (4)
-	47(5)
46(5)(a)	47(6)(c)
46(5)(b)	47(6)(b)

46(5)(c)	47(6)(a)
-	47(7) and (8)
46(6) – (12)	47(9) – (15)
47	48
48(1)	49(1)
48(2)(a) – (f)	49(2)(a) – (f)
48(2)(g)	-
48(2)(h)	49(2)(g)
48(3)	-
-	49(3)
48(4) – (10)	49(4) – (10)
49(1) – (6)	50(1) – (6)
49(7)	-
-	50(7)
-	50(8)
49(8) – (11)	50(9) – (12)
50	51

Part VI

51 and 52	52 and 53
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Part VII

53 - 57	54 - 58
58 (opening words to “nine”)	Schedule 5, paragraph 6(b)
58 (remainder)	-
59(1) – (8)	59(1) – (8)
-	59(9)
-	60(a) and (b)
60	60(c)
61(1) – (5)	61(1) – (5)
Proviso to 61(5)	Proviso (i) to 61(5)
-	Proviso (ii) to 61(5)

Part VIII

62(1) – (3)	62(1) – (3)
-	62(4)
63(1)	63(1)
-	63(2) and (3)
63(2) and (3)	63(4) and (5)
64 - 66	64 – 66

Schedule 1

1 - 18	1 – 18
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Schedule 2

1 - 18	1 – 18
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Schedule 3

1 - 12	1 - 12
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Schedule 4

1	1
2(a) – (e)	2(a) – (e)
-	2(f)
2(f)	2(g)
3 - 15	3 - 15
-	16 - 21
16 - 20	22 – 26

Schedule 5

1 and 2	1 and 2
-	3 - 5
3	6(a)
-	6(c)
-	7 and 8
4	9
-	10
5	11
-	12 - 16
6 and 7	17 and 18
-	19
8	20

Schedule 6

1 - 5	1 - 5
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Part two **Draft Amending Canon No.27**

GS 1598 (as at First Consideration)	GS 1598A (as amended by the Revision Committee)
1 - 8	1 - 8

Part three **Draft Vacancy in See Committees (Amendment) Regulation**

GS 1599 (as at First Consideration)	GS 1599A (as amended by the Revision Committee)
1 - 4	1- 4

Appendix IV Codes of Practice and other guidance material

1. Throughout its work the Committee took into account the Codes of Practice and other guidance material that would be needed in association with the draft legislation. For example, there were a number of matters that the Committee thought were best dealt with by guidance on good practice rather than by detailed regulation in the Measure. The Committee recognised that the guidance material would fall into three categories:-
 - (a) when and if the draft Measure became law, the new Dioceses Commission would need to be ready to provide guidance on various aspects of Part II of the Measure;
 - (b) the existing *Code of Recommended Practice on the Pastoral Measure* would require extensive revision to bring it up to date and make it more 'user-friendly'. It would also be necessary to consider what other guidance material would be required on the amended Pastoral Measure; and
 - (c) a new Code on mission initiatives would be required by clause 51 (as renumbered) of the draft Measure. Clause 51 provides for this to be drawn up and issued by the House of Bishops, subject to approval by the Synod.

Code on mission initiatives

2. The Committee recognised that the initial work on the Code on mission initiatives would necessarily go hand-in-hand with the task of revising the draft legislation, and that when the draft legislation was returned to the Synod for the Revision Stage in full Synod the Synod should be provided, for information, with an indication in general terms of what the Committee and the Steering Committee had in mind for the contents of the Code. The Steering Committee therefore recommended that a joint sub-committee of the Revision and Steering Committees should be set up to do initial work on the Code, including a preliminary draft outline which could be made available to the Synod for that purpose, and to report back to the main Committees.
3. The sub-committee comprised the Reverend Simon Bessant (Chair) and the Bishop of Exeter from the Steering Committee, and the Dean of Leicester and Canon Linda Jones from the Revision Committee, as well as, from outside the membership of either committee, the Reverend John Cole (a member of staff of the Council for Christian Unity), the Reverend Dr Steven Croft of the *Fresh Expressions* team and the Right Reverend Graham Cray, the Bishop of Maidstone, the Chair of the Working Group which produced the report on *Mission Shaped Church*.
4. The sub-committee has met four times between February and May 2006, with members and staff also doing a substantial amount of groundwork outside the meetings. A draft outline of the Code along the lines indicated in items 5 and 213 in the main report was produced and considered by the Committee and the Steering Committee by correspondence, and the resulting version of the draft outline is now being circulated to Synod members, for information, as paper GS 1597V. It should be stressed that this is both preliminary and provisional, and its sole purpose is to assist

the Synod at the Revision Stage by indicating the current thinking of the two Committees on the contents of the Code. However, further work will be done on the Code after the Revision Stage in full Synod, so that Synod members who wish to make any suggestions are invited to send them, by **Monday 24th July 2006**, to the secretary of the sub-committee, Miss Andrea Mulkeen, at Pastoral Division, Church Commissioners, 1 Millbank, London SW1P 3JZ or by e-mail to andrea.mulkeen@c-of-e.org.uk. Consideration will also be given to other guidance material for the new provisions on mission initiatives.

Code on the Pastoral Measure

5. As regards the Pastoral Measure, the Steering Committee saw the initial matters for consideration, in general terms, as (i) the broad requirements, aims and objectives as regards both new guidance and the revision of the existing Code of Practice; (ii) what changes these pointed to in practice in the form and presentation of the Code, and what forms the new types of guidance should take; and (iii) the time-scale and priorities for preparing new material, taking account of the two stage legislative process under which the Measure making substantive amendments was to be followed by a consolidation Measure.
6. On the recommendation of the Steering Committee, a joint sub-committee of the Committee and the Steering Committee was set up for those purposes, consisting of the Reverend Stephen Trott from the Steering Committee and Mr Timothy Allen and the Archdeacon of Colchester from the Revision Committee. In the circumstances, including the Committee's own heavy programme of work and the need to give priority to the work of the sub-committee dealing with the Code of Practice on Mission Initiatives, the sub-committee dealing with the Pastoral Measure guidance has not yet made any specific recommendations on the matters set out in paragraph 5 above, and it will be necessary to take these further in the period between the Revision Stage in full Synod of the legislation and the Final Drafting and Final Approval Stages.

Appendix V

PRIESTS (ORDINATION OF WOMEN) MEASURE 1993 - SCHEDULE 1 RESOLUTION A

OPINION

1. We have been asked by the Revision Committee for the draft Dioceses, Pastoral and Mission Measure (“the DPMM”) to advise on the effect of Resolution A in Schedule 1 to the Priests (Ordination of Women) Measure 1993 (“the 1993 Measure”), where it has been passed by the parochial church council (“PCC”) of a parish, in relation to:-
 - (a) the acts of a woman priest exercising her ministry within the geographical area of the parish but for the purpose of or in connection with a mission initiative endorsed by a bishop’s mission order under Part V of the DPMM; and
 - (b) the acts of a woman minister of a Church other than the Church of England conducting a service of Holy Communion or some other service otherwise than accordance with the rites of the Church of England. We understand it is thought that this situation may also arise in connection with a mission initiative under Part V of the DPMM in cases where the bishop’s mission order makes provision for some form of ecumenical co-operation with the other Church concerned.

The relevant provisions of the 1993 Measure

2. Section 3(1) of the 1993 Measure gives power to the PCC, subject to certain conditions and restrictions, to pass either or both of Resolutions A and B in Schedule 1 to that Measure. Resolution A in Schedule is in the following terms:-

“That this parochial church council would not accept a woman as the minister who presides at or celebrates the Holy Communion or pronounces the Absolution in the parish”.
3. When such a resolution is in force, section 3(6) provides that “a person discharging any function in relation to the parish or benefice concerned shall not act in contravention of the resolution”. (This is subject to an exception for parish church cathedrals, and there are other special provisions in the 1993 Measure relating to cathedrals, but we have assumed that the questions raised by the Revision Committee are not intended to apply to cathedral parishes.) Special provision is made for guild churches in section 3(8), and section 3(10) goes on to define “parish” for the purposes of section 3 as meaning an ecclesiastical parish or a conventional district.
4. Under section 5(b) it is an offence against the laws ecclesiastical “for any bishop, priest or deacon to act in contravention of a resolution under section 3(1) above or to permit any act in contravention of such a resolution to be committed in any church or any building licensed for public worship according to the rites so and ceremonies of the Church of England”.

The scope of Resolution A

5. Leaving aside the question in paragraph 1(b) above, and dealing solely with Anglican ministers, it seems to us that, the words of Resolution A, taken alone, are ambiguous as to whether any and every service of Holy Communion within the geographical area of the parish at which a woman presides or which a women celebrates, and any and every instance where a woman pronounces the Absolution within that geographical area, amounts to a contravention of the resolution.
6. However, we consider that the better view, taking the 1993 Measure as a whole, is that Resolution A does not apply to acts which are not the concern of the PCC and in relation to which the PCC has no specific responsibilities. Resolution A itself is not expressed in terms of a blanket prohibition on women celebrating the Holy Communion or pronouncing the Absolution within the parish, but begins with the words:-

“This parochial church council would not accept a women as the minister who ...”

and in our view this itself indicates that the resolution is not intended to extend beyond the ambit of the PCC’s control and specific responsibilities to areas (whether geographical or otherwise) which are not the concern of the PCC and where it is thus not for the PCC to “accept” or “decline to accept” the priestly ministry of a woman.

7. Section 2(2) of the Parochial Church Councils (Powers) Measure 1956 (“the 1956 Measure”) as amended gives the PCC a number of general functions, including:-

“co-operation with the minister in promoting in the parish the whole mission of the church, pastoral, evangelistic, social and ecumenical”.

The PCC also has specific functions under the 1956 Measure, including functions in relation to the financial affairs of the church and the care of the church and churchyard which were vested in the churchwardens before July 1921 (when the predecessor to the 1956 Measure was passed). However, it seems to us that none of these functions relate to the activities of a priest who is ministering lawfully in the parish but independently of the “minister” for the purposes of the 1956 Measure, nor do we think that the PCC’s general functions give it any specific responsibility in relation to the acts of such a priest, except in so far as the priest carries out her ministry in the parish church or some other place for which the PCC has responsibility. Even if the PCC could exercise its general duty under section 2(1) of the 1956 Measure to consult with the minister on matters of general concern and importance to the parish, and its power under section 7(v) to make representations to the bishop with regard to any matter affecting the welfare of the church in the parish, in relation to those activities, that would not give the PCC any real control over or responsibility in relation to them. Thus, on the construction suggested in paragraph 6 above, they would also lie outside the scope of Resolution A if the PCC had passed that Resolution.

8. In our view that construction is supported by other relevant provisions of the 1993 Measure. In particular:-

- (a) It is clear from section 3(10) of the 1993 Measure that the PCC of a conventional district can pass resolutions A and/or B. The implication of this must we think be that although a conventional district is in law part of the parish, it is to be treated as distinct from that parish so far as the resolutions under section 3(1) are concerned. Thus the position as regards the ministry of a women priest in the conventional district is to be governed by whether and if so which resolutions had been passed by the PCC of the conventional district and not by anything done by the PCC of the “main” parish.
 - (b) The same would also seem to be true of a guild church, by virtue of section 3(8).
 - (c) Section 3(6) provides that where a resolution under section 3(1) is in force, “a person discharging any function in relation the parish or benefice concerned shall not act in contravention of the resolution” (our underlining). We consider that “in relation to the parish or benefice” should be construed as referring to functions relating to the ecclesiastical institution of the parish or benefice, and not as covering anyone who has any functions at all, whether ecclesiastical or secular, in relation to the whole or part of the geographical area.
9. Any other construction would also give rise to obvious problems under section 1 of the Extra-Parochial Ministry Measure 1967 (“the 1967 Measure”) and its associated exception to Canon C8, paragraph 4. Under section 1, if a person is on the church electoral roll of a parish other than that in which he or she resides, the minister of the parish where he or she is on the roll may perform offices and services in his or her home without the consent of the minister of the place where they are performed “to the like extent and the like circumstances as he performs offices and services at the homes of his parishioners resident in the parish”. Particularly in view of the final words quoted, we do not think it can have been intended that the parish priest of the parish where the person concerned was on the electoral roll could not, for example, pronounce the absolution for that person if he or she was at home and suffering from a life-threatening illness.

Section 2 of the Extra-Parochial Ministry Measure 1967

10. This issue raised by the Revision Committee is somewhat similar to that which has already arisen in relation to women priests licensed to minister on the premises of institutions such as hospitals, schools or colleges under section 2 of the Extra-Parochial Ministry Measure 1967. It has been suggested that paragraph 25 of the Code of Practice on the 1993 Measure issued by the authority of the House of Bishops in January 1994 supports the view that, where the institution is within the geographical area of a parish whose PCC has passed Resolution A, that Resolution prohibits the woman priest from celebrating the Holy Communion or pronouncing the Absolution. However, in our view, even on the assumption that paragraph 25 could be taken into account in arriving at the proper interpretation of the 1993 Measure, it is too ambiguous to provide any real support for such a construction.

11. The reasoning set out in paragraphs 5-9 above leads us to the conclusion that where a PCC has passed Resolution A, it does not apply to the acts of a woman priest who is licensed to an institution under section 2 of the 1967 Measure, and holds no parochial appointment, except to the extent that she is conducting worship in the parish church or some other place licensed for public worship for which the PCC is responsible, with the consent or at the invitation of, say, the incumbent or the sequestrators during a vacancy in the benefice.

Part V of the DPMM

12. Applying the same reasoning, our view is that where a PCC has passed Resolution A, it would not extend to a woman priest in the position described in paragraph 1(a) above, who was exercising her ministry within the geographical area of the parish but for the purpose of or in connection with a mission initiative endorsed by a bishop's mission order under Part V of the DPMM, and who held no parochial appointment, unless again she was conducting worship in the parish church or some other parochial place of worship for which the PCC was responsible (for example by virtue of a provision included in the order under clause 47(14) of the DPMM).

Non-Anglican Ministers

13. Finally, as to the question posed in paragraph 1(b) above, we are in no doubt that Resolution A does not affect a woman minister of a Church other than the Church of England conducting worship according to rites other than those of the Church of England. Without attempting to set out exhaustively all the provisions in the 1993 Measure itself that make this clear, we would point out that such a woman minister would not fall within the scope of section 5(b) and that there would be no obvious way of seeking to enforce the 1993 Measure against her or her Church.

Stephen Slack
Sir Anthony Hammond
Ingrid Slaughter

31st March 2006