

## GENERAL SYNOD

## DRAFT AMENDING CANON NO. 28

## EXPLANATORY MEMORANDUM

**Background**

1. In February 2005 the General Synod resolved to accept (in an amended form) a motion from the Ely Diocesan Synod calling for the amendment of Canon B 44.5.<sup>1</sup> (The current text of Canon B 44.5 is set out in full in the Annex to this memorandum.) The resolution as passed by the Synod requested that legislation be introduced –  
  
“to delete from paragraph 5 of Canon B 44 *Of local ecumenical projects* all the words from ‘and in particular’ to the end”.
2. The intention lying behind the Synod’s decision was to remove the requirement that a service of Holy Communion according to the rites of the Church of England and presided over by a priest of the Church of England must be celebrated on certain principal Feast Days and Ash Wednesday within a local ecumenical project (‘LEP’).
3. Draft Amending Canon No.28 (GS 1642) will give effect to this decision, in a manner which reflects legal advice subsequently given to, and accepted by, the Council for Christian Unity (‘the CCU’).

**The legal context**

4. Canon B 44 (*Of local ecumenical projects*) makes provision for diocesan bishops to enter into agreements with the appropriate authorities of other participating churches for the establishment of LEPs (Canon B 44.1(1)).
5. Once a bishop has agreed to participation in an LEP, Canon B 44.4(1)(b) provides that he may execute an instrument exercising his powers under Canon B 14A. This allows the bishop to dispense on an occasional or regular basis with the celebration of Holy Communion - which is otherwise required (under Canon B 14) to be celebrated in every parish church at least on all Sundays and principal feast days, and on Ash Wednesday and Maundy Thursday. The bishop’s instrument may also make provision for the holding of joint services with any other participating church, and authorise the holding of services of Holy Communion presided over by a minister of another participating church (Canon B 44.4(1)(e) and (f)). But a service of Holy Communion presided over by a minister of another church – even if the form of service follows a form authorised by Canon B1 – may not be held out or taken to be a celebration of the Holy Communion according to the use of the Church of England (Canon B 44.4(3)(b)).

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<sup>1</sup> The decision was taken following a division by Houses, in which the voting was as follows: Bishops - Ayes 14, Noes 13; Clergy - Ayes 90, Noes 72; and Laity - Ayes 109, Noes 80. Details of the debate can be found in the *Report of Proceedings*, Volume 36, No.1, pages 12 to 26. The papers provided to resource the debate were GS Misc 763A and GS Misc 763 B.

6. Canon B 44.5 as it currently stands requires that, in exercising his powers under Canon B 44.4 (including the exercise of his power under Canon B 14A to dispense with the celebration of Holy Communion), the bishop must ensure that public worship according to the rites of the Church of England is maintained with reasonable frequency in a parish which is in (or part of which is in) the area of an LEP. However, Canon B 44.5 goes on to stipulate that a service of Holy Communion according to the rites of the Church of England and presided over by a priest of the Church of England ('an Anglican Eucharist') must be celebrated at least on Christmas Day, Ash Wednesday, Easter Day, Ascension Day and Pentecost. The effect of this latter stipulation is to make plain what the minimum 'reasonable frequency' is for the celebration in an LEP of an 'Anglican Eucharist'.

#### **Legal advice received on the implementation of the Synod's resolution**

7. Following the Synod's decision in February 2005, the Chief Legal Adviser and Standing Counsel to the General Synod have advised the CCU that, given the framework described above, it would be undesirable to give effect to the Synod's resolution simply by deleting the words to which it refers. The first part of Canon B 44.5 (requiring public worship according to the rites of the Church of England to be maintained with 'reasonable frequency') will remain in place; and if the Synod's resolution were to be put into effect without more, what amounts to 'reasonable frequency' (currently made plain by the words to be deleted) for that purpose would become entirely unclear.
8. The advice went on to suggest that Canon B44.5 ought accordingly to be amended in such a way as to clarify what factors the bishop may take into account with regard to Eucharistic worship when exercising his powers under Canon B 14A. To that end, it proposed that, in exercising those powers, the bishop should be entitled to have regard to the provision of Eucharistic worship (a) in neighbouring parishes and benefices; and (b) within the area of the LEP in accordance with the rites of other participating churches.
9. The CCU considered this legal advice at the first meeting of the newly constituted CCU in June 2006 and accepted it. Draft Amending Canon No.28 has been drafted accordingly. The Annex shows how Canon B 44.5 will read if amended in the way it provides.

#### **Article 7 Business**

10. Draft Amending Canon No 28 will represent Article 7 business (on the ground that it is a provision "*touching ... the services or ceremonies of the Church of England or the administration of the Sacraments or sacred rites thereof*"), with the consequent need for it to be referred to the House of Bishops before Final Approval.

The Legal Office  
Elizabeth House  
London SE1

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**Canon B 44.5 in its current form**

5. Before exercising his powers under paragraph 4 above in relation to any local ecumenical project the bishop shall consult the authorities of the other participating Churches, and he shall so exercise those powers as to ensure that public worship according to the rites of the Church of England is maintained with reasonable frequency in a parish which is in, or part of which is in, the area of the project and in particular that a service of Holy Communion according to the rites of the Church of England and presided over by a priest of the Church of England or by an episcopally ordained priest in a Church whose Orders are recognised and accepted by the Church of England shall be celebrated at least on Christmas Day, Ash Wednesday, Easter Day, Ascension Day and Pentecost.

**Canon B 44.5 as it will read if amended by Amending Canon No 28**

5. Before exercising his powers under paragraph 4 above in relation to any local ecumenical project the bishop shall consult the authorities of the other participating Churches, and he shall so exercise those powers as to ensure that public worship according to the rites of the Church of England is maintained with reasonable frequency in a parish which is in, or part of which is in, the area of the project and when exercising his powers under Canon B 14A in relation to the celebration of Holy Communion the bishop shall have regard to the extent and frequency –

- (a) of the celebration of Holy Communion according to the rites of the Church of England in neighbouring parishes and benefices; and
- (b) of the provision of services of Holy Communion according to the rites of other participating Churches in the area of the local ecumenical project.