

Draft Order laid before the General Synod of the Church of England under section 5 of the Legislative Reform Measure 2018 for approval by the General Synod.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2021 No. 0000

ECCLESIASTICAL LAW, ENGLAND

The Legislative Reform (Church Commissioners) Order 2021

<i>Made</i> - - - -	<i>July 2021</i>
<i>Laid before Parliament</i>	<i>July 2021</i>
<i>Coming into force</i> - -	<i>July 2021</i>

The Archbishops' Council makes the following Order in exercise of the powers conferred by sections 1 and 9 of the Legislative Reform Measure 2018^(a):

The Archbishops' Council considers that the conditions in section 2 of that Measure are (so far as relevant) satisfied.

The Archbishops' Council has consulted in accordance with section 4 of that Measure and has laid a draft Order and explanatory document before the General Synod in accordance with section 5 of that Measure.

In accordance with section 7 of that Measure, the draft Order has been approved by the General Synod.

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Legislative Reform (Church Commissioners) Order 2021.

(2) This Order comes into force on the day after that on which it is laid before Parliament.

(3) This Order has effect in the Isle of Man without exceptions, adaptations or modifications.

(4) In this Order, “the 1947 Measure” means the Church Commissioners Measure 1947^(b).

Commissioners' term of office

2.—(1) In Schedule 1 to the 1947 Measure (constitution of Commissioners), for paragraph 2 (term of office) substitute—

“2.—(1) Each elected Commissioner is to hold office for a period of five years; and each election is to be conducted in accordance with the Standing Orders of the General Synod.

(a) 2018 No.5.

(b) 1947 No.2.

(2) Each nominated Commissioner is to hold office for such period not exceeding five years as the person or persons making the nomination determine.

(3) A person who has held office as an elected Commissioner or as a nominated Commissioner, or as either, for a continuous period of ten years—

- (a) ceases to hold office at the end of that period or, if the person continues to hold office under sub-paragraph (4) or paragraph 3, at the end of that period of continuation, and
- (b) is not eligible for election or appointment as a Commissioner until after the end of five years beginning with the date on which the person last ceased to hold office (including, where applicable, under sub-paragraph (4) or paragraph 3).

(4) A nominated Commissioner who has held office for a continuous period of ten years may continue to hold office for the period determined under paragraph (b) if—

- (a) the Board, having satisfied itself that there are exceptional circumstances which would justify a continuation, has requested the person or persons who last nominated that Commissioner to nominate that Commissioner to continue to hold office for a period not exceeding 12 months, and
- (b) the person or persons concerned, having agreed to the request, nominate the Commissioner to hold office for such period not exceeding 12 months as the person or persons may determine.

(5) The nomination of a person under sub-paragraph (4)(b) is to be made in the same manner as the last nomination of the person under paragraph 1(b) was made.”

(2) In Schedule 4 to the 1947 Measure (general provisions), for paragraph 4 (term to be served by person filling casual vacancy)—

“4.—(1) A person elected to fill a casual vacancy among the elected Commissioners is to hold office for a period of five years.

(2) A person nominated to fill a casual vacancy among the nominated Commissioners is to hold office for such period not exceeding five years as the person or persons making the nomination determine.”

(3) This article applies only in the case of an election which takes place, or a nomination which is made, after the commencement of this Order.

Assets Committee or Audit and Risk Committee: term of office etc.

3.—(1) In section 6 of the 1947 Measure (Assets Committee and Audit and Risk Committee), in subsection (1), for paragraph (a) substitute—

“(a) the Assets Committee is to comprise—

- (i) the First Church Estates Commissioner,
- (ii) two Commissioners who are clerks in Holy Orders (at least one of whom must be a Commissioner elected by the House of Clergy of the General Synod) appointed by the Board for such period not exceeding five years as the Board determines, and
- (iii) at least four but no more than eight lay Commissioners (at least one of whom must be a Commissioner elected by the House of Laity of the General Synod) appointed by the Archbishop of Canterbury for such period not exceeding five years as the Archbishop determines and each of whom is, in the opinion of the Archbishop, well qualified to assist in the management of the Commissioners’ assets;”.

(2) In that subsection, for paragraph (d) substitute—

“(d) the Audit and Risk Committee is to comprise at least four but no more than six persons appointed by the Board for such period not exceeding five years as the

Board determines, at least one of whom must be an elected Commissioner and at least two of whom must not be Commissioners;”.

(3) After that subsection insert—

“(1A) A person who has served as an appointed member of the Assets Committee or as a member of the Audit and Risk Committee, or as either, for a continuous period of ten years—

- (a) ceases to be a member at the end of that period or, if the person continues to be a member under subsection (1B) or (1C), at the end of the period of continuation, and
- (b) is not eligible for appointment to either Committee until after the end of five years beginning with the date on which the person last ceased to be a member of either Committee (including, where applicable, under subsection (1B) or (1C)).

(1B) A person who has served as an appointed member of the Assets Committee or as a member of the Audit and Risk Committee, or as either, for a continuous period of ten years, and who was last appointed by the Board, may continue to serve for such period not exceeding 12 months as the Board may determine if it is satisfied that there are exceptional circumstances which justify the continuation.

(1C) A person who has served as an appointed member of the Assets Committee or as a member of the Audit and Risk Committee, or as either, for a continuous period of ten years, and who was last appointed by the Archbishop of Canterbury, may continue to serve for the period determined under paragraph (b) if—

- (a) the Board, having satisfied itself that there are exceptional circumstances which would justify a continuation, has requested the Archbishop to continue the appointment for a period not exceeding 12 months, and
- (b) the Archbishop, having agreed to the request, continues the appointment for such period not exceeding 12 months as the Archbishop may determine.

(1D) Where a member of the Audit and Risk Committee who is not a Commissioner becomes an elected or nominated Commissioner—

- (a) subsection (1A) does not prevent that person from serving as a member of the Audit and Risk Committee, or as a member of the Assets Committee, in the capacity as a Commissioner, and
- (b) the time served as a member of the Audit and Risk Committee while not a Commissioner does not count towards the period of ten years referred to in subsection (1A).”

(4) In Schedule 4 to the 1947 Measure (general procedural provisions), in paragraph 4 in the form it is provided for in article 2(2), at the end insert—

“(3) A person appointed to fill a casual vacancy among the appointed members of the Assets Committee or of the Audit and Risk Committee is to hold office for such period not exceeding five years as the person or body making the appointment determines.”

(5) This article applies only in the case of an appointment which is made after the commencement of this Order.

Removal of disqualification of salaried officials in diocese

4. In Schedule 1 to the 1947 Measure (constitution of Commissioners), in paragraph 4 (which disqualifies a salaried member of a central or diocesan body of the Church of England from being a Commissioner), omit “or diocesan”.

Requirement for membership of Church of England

5.—(1) In Schedule 1 to the 1947 Measure (constitution of Commissioners), in paragraph 6 (declaration), for “membership of the Church of England” substitute “—

“(a) membership of the Church of England or of a Church which subscribes to the doctrine of the Holy Trinity, and

(b) support for the charitable objects of the Commissioners.”

(2) In section 7 of the 1947 Measure (procedure), after subsection (1) insert—

“(1A) A majority of the members of the Board, and a majority of the members of each committee constituted by or under this Measure, must be members of the Church of England.”

Remote meetings and correspondence procedure

6.—(1) In Schedule 4 to the 1947 Measure (general procedural provisions), after paragraph 7 insert—

“**8.**—(1) A reference in this Measure to a meeting of the Commissioners, the Board or a committee includes a reference to a meeting which persons may attend, speak at, vote in or otherwise participate in without all of the persons, or without any of the persons, being together in the same place.

(2) A reference in this Measure to a place where a meeting of the Commissioners, the Board or a committee is held, or is to be held, includes a reference to more than one place, including electronic, digital or virtual locations, web addresses or conference call telephone numbers.

(3) A person is to be regarded as present at a meeting of the Commissioners, the Board or a committee at any given time if the person is at that time able to hear and be heard, and where practicable see and be seen, by the other persons present.

(4) A reference in this Measure to being present at a meeting of the Commissioners, the Board or a committee includes a reference to being present by electronic means, including by telephone conference, video conference, live webcast or live interactive streaming.

(5) In this paragraph, “committee” means a committee constituted by or under this Measure.”

(2) In that Schedule, in paragraph 5A (correspondence procedure), in sub-paragraph (1)—

(a) before “the Board”, in each place it appears, insert “the Commissioners,”, and

(b) for “its members” substitute “the Commissioners or (as the case may be) the members of the Board or committee”.

(3) In section 18 of the 1947 Measure (interpretation), after subsection (2) insert—

“(3) A reference in this Measure to a meeting of the Commissioners, the Board or a committee constituted by or under this Measure, including a reference to the place at which such a meeting is or is to be held or a reference to being present at such a meeting, is to be construed in accordance with paragraph 8 of Schedule 4.”

Lambeth Palace Library: expansion of Commissioners’ charitable objects

7. After section 13 of the 1947 Measure insert—

“Charitable object relating to facilities at Lambeth Palace Library

13A. The charitable objects of the Commissioners are to include providing the National Church Institutions with access to the facilities for archiving and document storage at Lambeth Palace Library.”

Correction of minor drafting error

8. In section 10 of the 1947 Measure (finance), in subsection (6) (use of general fund), after “39(6)” insert “of the Church of England Pensions Measure 2018”.

Approved and made etc.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 1 of the Legislative Reform Measure 2018 and amends the Church Commissioners Measure 1947.

Article 2 sets a maximum five-year term of office for a nominated member of the Church Commissioners. A nominated member who has served for a consecutive period of ten years is not eligible to become a Commissioner again, by appointment or election, until after an interval of five years has passed. A nominated member who has served for a consecutive period of ten years may, in exceptional circumstances, serve for a further period of up to 12 months.

Article 3 makes equivalent provision for the Assets Committee and the Audit and Risk Committee. It also increases from six to eight the maximum number of lay Commissioners who may be appointed to the Assets Committee. It further provides that, where a member of Audit and Risk Committee who is not a Commissioner is elected or appointed as one, the member can still serve on either Committee as a Commissioner, regardless of how long the member has served before becoming a Commissioner.

Article 4 provides that salaried officials of a diocesan body are no longer disqualified from membership of the Commissioners.

Article 5 requires lay Commissioners to declare their membership of the Church of England or of a Church which subscribes to the doctrine of the Holy Trinity and their support for the charitable objects of the Commissioners. It also provides that, for each committee of the Commissioners, a majority of the members must be members of the Church of England.

Article 6 enables meetings of the Commissioners, the Board or committees to be held remotely. It also enables the Commissioners to conduct business by correspondence.

Article 7 expands the charitable objects of the Commissioners to include providing the National Church Institutions with access to the archiving and document storage facilities at Lambeth Palace Library.

Article 8 corrects a minor error in a cross-reference to a statutory provision.