

GENERAL SYNOD

Amending Canon No. 43

Explanatory Notes

Amending Canon No. 43 makes miscellaneous amendments to the Canons which do not merit separate, free-standing legislation.

Background and summary

1. Amending Canon No. 43 deals with various matters that do not merit separate, free-standing legislation.
2. The annex shows the text of the Canons as proposed to be amended by the provisions of the Amending Canon where the effect of an amendment is not readily apparent from the Amending Canon itself.

Procedural stages

3. Standing Order 48(1) provides for Measures and Canons to be considered by the General Synod on the following successive stages:
 - **First Consideration (see SOs 51 and 52)**
 - Revision Committee (see SOs 54 to 57)
 - Revision (see SOs 53 and 58 to 60)
 - Final Drafting (see SO 61)
 - Final Approval (see SO 64).
4. The draft Amending Canon is being considered by the General Synod at the July 2022 group of sessions on the **First Consideration Stage**.
5. The next stage will be the Revision Committee Stage. Members who wish to send proposals for amendment for consideration by the Revision Committee must do so in writing to revisioncommittee@churchofengland.org not later than 5.30 p.m. on Friday 9th September 2022.
6. The Amending Canon is expected to return to the Synod for the Revision Stage in February 2023, with the Final Drafting and Final Approval Stages being taken in July 2023.

Notes on paragraphs**Paragraph 1 Services in parish churches**

7. Paragraph 1 deals with a lacuna which arose from amendments made by Amending Canon No. 39. Amending Canon No. 39 changed the requirement to hold certain services each Sunday and on specified other days in a church in every *parish* to a requirement to hold those services in a church in every *benefice*. However, those amendments removed, without replacing it with updated provision, a backstop provision that prevented a church ceasing to be used for public worship altogether when deciding where services should take place. If a church is no longer to be used

for public worship at all, then it should be closed for worship under the Mission and Pastoral Measure 2011.

8. Paragraph 1 of the Amending Canon therefore inserts provisions in Canons B 11 and B 14 reinstating the backstop provision which prevents decisions as to where services are to take place within a benefice resulting in a church ceasing to be used altogether for public worship.

Paragraphs 2 and 3 Marriage

9. Paragraph 2 amends the Canons B 31 and B 32 (which are concerned with impediments to marriage) in line with changes to the law made by the Marriage and Civil Partnership (Minimum Age) Act 2022. That Act raises the minimum age at which a person may lawfully marry from 16 to 18.
10. Paragraph 3 amends Canons B 34 (which is concerned with the legal preliminaries to marriage) and B 36 (which makes provision for services after civil marriage) in line with recent amendments to the Marriage Act 1949 which replaced superintendent registrar's certificates with marriage schedules.

Paragraph 4 Lay residentiary canons

11. Paragraph 4 amends Canon C 21 (which sets out qualifications required for appointment as, among other things, a residentiary canon) to take account of the provision made in clause 5 of the draft Miscellaneous Provisions Measure for the appointment of lay residentiary canons.

Paragraph 5 Rural deans

12. Paragraph 5 amends Canons F 17 (which sets out requirements as to the keeping of records of church property) and F 18 (which provides for the survey of churches) so that a person other than the rural dean¹ may act as the deputy of the archdeacon under these Canons. The rural dean might not be available to act as deputy, and delay then ensues if the inspection of records or of the church building has to be postponed. The amendments will enable some other person to be appointed to act as the deputy of the archdeacon for these purposes.

Paragraph 6 Ecclesiastical Courts

13. Paragraph 6 makes it clear that the qualifications for appointment as a deputy diocesan or provincial registrar are the same as those for appointment as a registrar (including the qualification of being a communicant)...

Paragraph 7 Interpretation

14. Paragraph 7 amends Canon I 1 so that the provision that it makes for the interpretation of Canons also applies to instruments (e.g. regulations) that are made under a Canon.

¹ In many places, the office of rural dean is known as "area dean". This is provided for in section 12(4) of the Church of England (Miscellaneous Provisions) Measure 2000. The Bishop may make a declaration under that subsection that the office of rural dean is to be called by the name of area dean and references in any Measure, Canon or other instrument referring to a rural dean are to be read as including references to an area dean.

Paragraphs 8 to 11 Updating statutory references

15. Paragraphs 8 to 11 update various references to Acts and Measures in the Canons which have become out of date.

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The text of Canons as amended

This annex shows the text of Canons as proposed to be amended by the provisions of the draft Measure where the effect of an amendment is not readily apparent from the Measure itself.

Paragraph 1

B 11 Of Morning and Evening Prayer in parish churches

1. Morning and Evening Prayer shall be said or sung in at least one church in each benefice or, where benefices are held in plurality, in at least one church in at least one of those benefices at least on all Sundays and other principal Feast Days, and also on Ash Wednesday and Good Friday. Each service shall be said or sung distinctly, reverently, and in an audible voice. Readers, such other lay persons as may be authorized by the bishop of the diocese, or some other suitable lay person, may, at the invitation of the minister who has the cure of souls or, where the cure is vacant or the minister is incapacitated, at the invitation of the churchwardens say or sing Morning and Evening Prayer (save for the Absolution).

2. On all other days, the minister who has the cure of souls, together with other ministers licensed to serve in the benefice (or one or more of the benefices), shall make such provision for Morning and Evening Prayer to be said or sung either in at least one of the churches in the benefice (or at least one of the churches in at least one of the benefices) or, after consultation with the parochial church council of each parish in the benefice (or benefices), elsewhere as may best serve to sustain the corporate spiritual life of the benefice (or benefices) and the pattern of life enjoined upon ministers by Canon C 26. Public notice shall be given by tolling the bell or other appropriate means, of the time and place where the prayers are to be said or sung.

2A. In making a decision as to how to give effect to paragraph 1 or 2, the person or persons doing so shall ensure that no church ceases altogether to be used for public worship.

3. The reading of Morning and Evening Prayer as required by this Canon may only be dispensed with in accordance with the provisions of Canon B 14A.

B14 Of Holy Communion in parish churches

1. The Holy Communion shall be celebrated in at least one church in each benefice or, where benefices are held in plurality, in at least one church in at least one of those benefices at least on all Sundays and principal Feast Days, and on Ash Wednesday and Maundy Thursday. It shall be celebrated distinctly, reverently, and in an audible voice.

1A. In making a decision as to how to give effect to paragraph 1, the person or persons doing so shall ensure that no church ceases altogether to be used for public worship.

2. The celebration of the Holy Communion as required by this Canon may only be dispensed with in accordance with the provisions of Canon B 14A.

3. *[Repealed by Amending Canon No. 39]*

Paragraphs 2 and 3

B 31 Of certain impediments to marriage

1. No person who is under ~~46~~ **18** years of age shall marry, and all marriages purported to be made between persons either of whom is under ~~46~~ **18** years of age are void.

B 32 Of certain impediments to the solemnization of matrimony

No minister shall solemnize matrimony between two persons either of whom (~~not being a widow or widower~~) is under 18 years of age ~~otherwise than in accordance with the requirements of the law relating to the consent of parents or guardians in the case of the marriage of a person under 18 years of age.~~

B 34 Of requirements preliminary to the solemnization of matrimony

1. A marriage according to the rites of the Church of England may be solemnized:

(a) after the publication of banns of marriage;

(b) on the authority of a special licence of marriage granted by the Archbishop of Canterbury or any other person by virtue of the Ecclesiastical Licences Act 1533 (in these Canons, and in the statute law, referred to as a 'special licence');

(c) on the authority of a licence (other than a special licence) granted by an ecclesiastical authority having power to grant such a licence (in these Canons, and in the statute law, referred to as a 'common licence'); or

(d) on the authority of ~~a certificate issued by a superintendent registrar under the provisions of the statute law in that behalf~~ **a marriage schedule issued under Part 3 of the Marriage Act 1949.**

B 36 Of a service after civil marriage

1. If any persons have contracted marriage before the civil registrar under the provisions of the statute law, and shall afterwards desire to add thereto a service of Solemnization of Matrimony, a minister may, if he see fit, use such form of service, as may be approved by the General Synod under Canon B 2, in the church or chapel in which he is authorized to exercise his ministry: Provided first, that the minister be duly satisfied that the civil marriage has been contracted, and secondly that in regard to this use of the said service the minister do observe the Canons and regulations of the General Synod for the time being in force.

2. In connection with such a service there shall be no publication of banns nor any ~~licence or certificate authorizing a marriage~~ **licence authorizing a marriage nor any marriage schedule under Part 3 of the Marriage Act 1949**; and no record of any such service shall be entered by the minister in the register books of marriages provided by the Registrar General.

Paragraph 6

G 4 Of registrars

1. The registrar of a province and of the provincial court is appointed by the archbishop of that province, and the registrar of a diocese and its consistory court is appointed by the bishop of the diocese.

2. The qualifications of a person appointed to be such a registrar as aforesaid are that the person should have a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 learned in the ecclesiastical laws and the laws of the realm; and the archbishop or bishop making the appointment must be satisfied that the said person is a communicant.

2A. The qualifications for appointment as the deputy of such a registrar under section 29(1) or 31(1) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 are the same as those for the appointment of such a registrar under paragraph 2; and the registrar making the appointment must be satisfied that the appointee is a communicant.

3. A registrar, before entering on the execution of the office, is required to take, in the presence of the archbishop or bishop, as the case may be, the oaths specified in paragraph 3 of Canon G 2, and to make and subscribe, in the like presence, the declaration therein specified.