

GENERAL SYNOD

AMENDING CANON NO. 43 (MISCELLANEOUS PROVISIONS)

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 to these Explanatory Notes shows the text of the Canons as proposed to be amended by the draft 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 was considered by the General Synod at the July 2022 group of sessions on the First Consideration Stage.
5. Revision Committee Stage took place in November and December 2022.
6. There were five submissions to the Revision Committee from members of the Synod.
7. The next stage is the **Revision Stage** in Full Synod, which is being taken at the February 2023 group of sessions. Members who wish to send proposals for amendment for Revision Stage must do so in writing by the deadline specified in the Agenda for that group of sessions.
8. The draft Amending Canon is expected to return to the Synod for the Final Drafting and Final Approval Stages in July 2023.

Notes on provisions of draft Amending Canon

Part 1 The Demise of the Crown

Paragraphs 1 to 5

9. *Paragraphs 1 to 5* make amendments to the Canons in consequence of the recent demise of the Crown. The amendments are to Canons A 1 and A 6 (the Church of England and its government), Canon A 7 (the Royal Supremacy), Canon B 19 (the Bidding Prayer), Canon C 13 (the Oath of Allegiance) and Canon C 17 (archbishops).

Part 2 Miscellaneous Amendments

Paragraph 6 Services in parish churches

10. *Paragraph 6* removes an anomaly that arose from certain amendments made by Amending Canon No. 39. That Amending Canon changed the requirement to hold certain services each Sunday and on other specified days in a church in every *parish* to a requirement to hold those services in a church in every *benefice*. However, the amendments removed without replacement a backstop provision that would prevent a church from ceasing to be used for public worship altogether when the decision was taken on 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.
11. *Paragraph 6* therefore inserts provisions in Canons B 11 and B 14 to reinstate the backstop provision to prevent decisions on where services are to take place within a benefice from leaving a church ceasing to be used altogether for public worship.

Paragraphs 7 and 8 Marriage

12. *Paragraph 7* amends Canons B 31 and B 32 (which are each concerned with impediments to marriage) in line with the 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.
13. *Paragraph 8* 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 9 Lay residentiary canons

14. *Paragraph 9* amends Canon C 21 (which sets out qualifications required for appointment as a residentiary canon, among other things) to take account of the provision made in clause 7 of the draft Miscellaneous Provisions Measure for the appointment of lay residentiary canons. The amendment to Canon C 21 reflects the condition in clause 7 that only a person who has been admitted as a reader or lay worker for at least six years and is licensed to serve as such is eligible for appointment as a lay residentiary canon.

Paragraph 10 Rural deans

15. *Paragraph 10* 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 those Canons. But the rural dean might not be available to act as deputy and delay would then ensue if the inspection of records or of the church building had 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 11 Ecclesiastical Courts

16. *Paragraph 11* provides that the qualifications for appointment as a deputy diocesan or provincial registrar are the same as those for appointment as a registrar (including the requirement to be a communicant).

Paragraph 12 Interpretation

17. *Paragraph 12* amends Canon I 1 (interpretation of the Canons) so that the provision that it makes for the interpretation of Canons also applies to instruments (for example, regulations) that are made under a Canon.

Part 3 Updating Statutory References

Paragraphs 13 to 16

18. *Paragraphs 13 to 16* update various references to Acts and Measures in the Canons which have become out of date.

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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.

The text of the Canons as amended

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

Paragraph 6

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 7 and 8

B 31 Of certain impediments to marriage

1. No person who is under ~~16~~ **18** years of age shall marry, and all marriages purported to be made between persons either of whom is under ~~16~~ **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 11

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.