

GENERAL SYNOD

Draft National Church Governance Measure 2024

Explanatory Notes

The draft National Church Governance Measure provides a new statutory framework for the governance of certain national functions of the Church of England and will replace the framework in the National Institutions Measure 1998 (“the 1998 Measure”)

INTRODUCTION

Background and Summary

1. The National Church Governance Project Board (NGPB) was established in February 2022 to take forward the work of an earlier Governance Review Group. In its final report in June 2023 (GS 2307) the NGPB recommended that significant changes be made to the governance arrangements for the National Church in order to rebuild trust and deliver greater transparency, accountability and effectiveness and set out 17 recommendations.
2. Key changes proposed by the recommendations were:
 - the reduction of the National Church Institutions (NCIs) from seven to four and the creation of a new NCI the Church of England National Services (CENS);
 - the transfer to CENS of most of the non-investment functions of the Church Commissioners;
 - the development of Diversity Charters by each NCI (with an accompanying duty to monitor and report progress made towards objectives set out in the Charter); and
 - the establishment of a permanent Synodical Scrutiny Committee to scrutinize national decisions taken by the NCIs.
3. The General Synod endorsed the Report in July 2023 and requested that the Archbishops’ Council bring forward a draft measure for First Consideration in February 2024.

Policy Context

4. The membership of NGPB was reviewed following the debate in Synod and expanded to become the National Church Governance Programme Board (NCGPB) in October 2023. The NCGPB is responsible for the delivery of the governance programme and has oversight of the practical implementation of

the policy. The Policy Note that accompanies the draft Measure (GS 2360P) sets out the policy and plans for implementation in detail. The Archbishops' Council, the Church Commissioners and Church of England Central Services (ChECS) have approved the proposals set out in GS 2360P. The policy contains wide-ranging reforms and will be supplemented by applicable guidance.

Legislative and Legal Context

5. The draft Measure (GS 2360) was introduced, on the instructions of the Archbishops' Council, to give effect to the Recommendations of the National Church Governance Report (GS 2307) which require Primary Legislation.
6. The draft Measure was considered by General Synod at the July 2024 group of sessions on the First Consideration stage.

PROCEDURAL STAGES

7. 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)
8. The Revision Committee stage took place in October, November and December 2024.
9. There were 20 submissions to the Revision Committee from members of the General Synod (some of whom made more than one submission). Additional submissions were received from the Church of England Pensions Board. The Revision Committee made several amendments to the draft Measure, including the insertion of clauses 9 and 22.
10. The next stage is the **Revision Stage** in Synod which is being taken at the February 2025 group of sessions. Members who wish to send proposals for amendment for the Revision Stage must do so in writing by the deadline specified in the agenda for that group of sessions.
11. The Measure is expected to return to the Synod for the Final Drafting and Final Approval stages in July 2025.

NOTES ON CLAUSES

Clause 1 The National Church Institutions

12. Clause 1(1) sets out a list of the bodies which will constitute “the National Church Institutions of the Church of England”.
13. Subsection (2) provides for a reference in any other legislation to a National Church Institution to be read accordingly.
14. Subsection (3) provides some flexibility by enabling the addition to, or removal of, a body from the list of National Church Institutions where a new body is established, or an existing body is dissolved. An addition or removal from the list is made by order of the Archbishops of Canterbury and York acting jointly. An order exercising this power is subject to scrutiny and approval by the General Synod in accordance with clause 25 of the draft Measure (procedure on orders). Under clause 25(2) a draft of a proposed order must be laid before the General Synod. The Synod has the power to approve the draft order as laid, to approve the order as amended by the Synod or to reject the draft order.
15. The effect of the order-making power in subsection (3) is narrow and it does not confer a power on the Archbishops to create new bodies or to dissolve existing bodies. The power to add to, or remove from, the list of National Institutions arises where a body is established other than by or under a Measure and can only be used to remove a body from that list where the body in question has been dissolved.

Clause 2 Establishment

16. Clause 2(1) to (3) establish a new body corporate (i.e. a body which has a permanent existence and its own legal personality) called “Church of England National Services” and provide (by reference to Schedule 1) for its membership, committees and proceedings.
17. Clause 2(4) enables CENS to amend the provisions in Schedule 1 by order, which in accordance with clause 25 must be subject to scrutiny and approval by Synod.

Clause 3 Charitable Status and Objects

18. Clause 3(1) establishes CENS as a charity and clause 3(2) states that the members of CENS are the charity trustees with whom lies the general control and management of the administration of CENS. Clause 3(3) sets out its charitable objects which are framed around the advancement of religion and drafted broadly to reflect the nature and extent of the charitable purposes CENS was created to further. Subsection (4) specifies that in furthering its objects CENS must act for the public benefit, which is a general requirement

for all charities. Subsection (5) enables CENS to carry out the full range of charitable objects of their predecessor bodies including the service delivery functions currently performed by ChECS.

Clause 4 Governance and Nominations Committee

19. The NGPB recommended the establishment of a Governance and Nominations Committee to oversee the appointments process to the CENS Board and the appointment of members of its committees. Clause 4 provides for the appointment of a Governance and Nominations Committee. Clause 4(1) confers a number of statutory functions on the committee, which require it to advise on the effectiveness of the systems of governance for CENS (clause 4(1)(a)); the recruitment of CENS members and members of its committees (clause 4(1)(b)) and the composition of the CENS Board and its committees, to ensure they are appropriately skilled and diverse (clause 4(1)(c)). Clause 4(1)(d) enables it to advise on how to make any improvements in the light of the advice given under clause 4(1)(c).
20. Clause 4(2) and (3) require the Committee to keep the structure and scope of other CENS committees and the Governance and Nominations Committee itself under review.
21. Clause 4(4) makes provision for CENS to change the Governance and Nominations Committee's structure or the scope of its activities by order should it be satisfied that this is necessary following a review under subsection (3). Any such order is subject to the procedure for Synodical approval under clause 25.
22. Clause 4(5) sets out the membership of the committee which comprises the deputy chair of CENS (clause 4(5)(a)), two other members from CENS appointed by CENS at least one of whom must be an elected member i.e. a member of CENS elected by and from a House of the General Synod (clause 4(5)(b)), two members of the Appointments Committee appointed by that Committee (clause 4(5)(c)) and two independent members appointed by CENS (clause 4(5)(d)). The composition seeks to ensure that membership on the committee is balanced and that there are appropriate links with Synod.
23. Clause 4(6) provides that the deputy Chair of CENS is *ex-officio* chair of the committee.
24. Clause 4(7) deals with the eligibility criteria for the committee's independent members. A person cannot be appointed as an independent member of the Governance and Nominations Committee if the person is a member of CENS or of another National Institution, a member of General Synod or a member of a national Church body (as defined in clause 24(2)).
25. Clause 4(8) provides a quorum of four for the committee.

Clause 5 Audit and Risk Committee: functions and membership

26. Clause 5 provides for the appointment of an Audit and Risk Committee and imposes statutory duties which are set out in clause 5(1)(a) to (g).
27. Clause 5(1)(a) and (b) provide that the committee is under a duty to recommend an external auditor for appointment and direct the auditor on how external audits are undertaken.
28. Clause 5(1)(c) to (e) place duties on the committee to review CENS' accounting policies and practices, its risks (including financial risks) and the effectiveness of CENS' internal control system.
29. Clause 5(1)(f) requires the committee to consider any representations made to it.
30. Clause 5(1)(g) requires the committee to report to the General Synod on matters relating to the business of CENS about which the committee has grave concerns and about which CENS has been unable to satisfy the committee.
31. Clause 5(2) places a duty on the committee to make available internal audit services to other National Institutions and where the service is provided, to oversee the contracts for the provision of internal audit services.
32. Clause 5(3) provides for the membership of the committee. Two members of the committee are appointed by CENS and at least one of these must be an elected member (clause 5(3)(a)).
33. Two members are elected by and from the House of Clergy and the House of Laity taken together.
34. The remaining three members are independent persons appointed by CENS (clause 5(3)(c)). The independent members must not be members of CENS (clause 5(8)(a)), another National Institution (clause 5(8)(b)), the General Synod (clause 5(8)(c)) or another Church body (clause 5(8)(d)). A national Church body is defined in clause 24(2).
35. Clause 5(4) provides that CENS appoints the chair of the committee from amongst the members of the committee, subject to the approval of the General Synod. Clause 5(5) requires the chair to have a professional background in finance and governance as well as recent and relevant financial experience.
36. Clause 5(6) makes provision that enables the chair of the Audit and Risk Committee (should they not be a member of CENS) to attend and speak at CENS meetings, but without voting rights.

37. Clause 5(7) deals with the eligibility requirements for members of the committee elected under clause 5(3)(b) and provides that they must not be a member of CENS or another National Institution.
38. Clause 5(9) provides that the committee's staff must supply the committee with information in their possession required by the committee to enable it to carry out its functions.
39. Clause 5(10) sets out the requirement for the committee to provide an annual report on the exercise of its functions during the previous year to CENS and to the General Synod.
40. Clause 5(11) provides a quorum of four for the committee.

Clause 6 Mission and Pastoral Adjudication Committee: functions

41. Most of the non-investment functions of the Church Commissioners will transfer to CENS in accordance with the recommendation of the NGBP. These include the Commissioners' functions under the Repair of Benefice Buildings Measure 1972, the Ecclesiastical Offices (Terms of Service) Measure 2009, the Mission and Pastoral Measure 2011 and the Church Property Measure 2018.
42. Clause 6 establishes the Mission and Pastoral Adjudication Committee (MPAC) which will be an 'arm's length' committee of CENS with responsibility for providing the independent determinative and adjudicative functions carried out at national level under those Measures. They relate to Church Property consultations, Clergy and Episcopal Housing appeals, the determination of representations made on pastoral reorganisation and the disposal of closed church property.
43. Subsections (1) to (3) set out the functions of the committee. They are—
 - determining representations
 - granting consents
 - making or determining appeals.
44. Whilst the MPAC will consider representations made with respect to draft Schemes proposed under the Mission and Pastoral Measure 2011, clause 6(3) creates an exception so that the committee does not deal with the granting of consents under section 57 of the Mission and Pastoral Measure 2011 (which relate to certain functions of the Churches Conservation Trust in relation to church buildings that have been closed and will transfer to CENS in the proposed arrangements).
45. Clause 6(4) grants power to the General Synod, by resolution, to add, vary or remove a function of MPAC. Clause 6(5) provides that the power to make a

resolution is exercisable by statutory instrument, which will be subject to the negative resolution procedure in Parliament (clause 6(6)).

Clause 7 Mission and Pastoral Adjudication Committee: membership

46. Clause 7 sets out the membership of MPAC. In order to secure its independence, no members of MPAC will be appointed by CENS.
47. Clause 7(1)(a) provides that the chair is to be appointed by His Majesty. Clause 7(1)(b) provides that eight members are to be appointed by the Appointments Committee and clause 7(1)(c) provides that four members are to be appointed by the Appointments Committee of the Church of England on the recommendation of the Governance and Nominations Committee.
48. Clause 7(2) requires that in making an appointment or recommendation for appointment to MPAC under clause 7(1) (b) or (c) the relevant committee must have regard to the desirability of securing that the membership of MPAC includes persons with skills, knowledge and experience, or aspects of diversity, not otherwise represented on MPAC.
49. Clause 7(3) sets out the conditions for the appointment of members by the Appointments Committee. It requires that at least two are persons in episcopal orders (one diocesan and one suffragan), at least two are clerks in holy orders and at least two are members of the House of Laity in General Synod. In each case, one of the two persons must hold office in the province of Canterbury and the other in the province of York.
50. Clause 7(4) provides that the committee membership must include at least one archdeacon, one diocesan secretary and at least one person nominated by the Secretary of State. Clause 7(7) provides further that the diocesan secretary appointee may only be appointed following consultation with the groups that represent diocesan secretaries in the province of Canterbury and the province of York.
51. Clause 7(5) provides that should the requirement for at least one archdeacon, one diocesan secretary and one person nominated by the Secretary of State to be appointed to the committee not be met by the Appointments Committee under subsection (1)(b) then they must be met by appointments made under subsection (1)(c).
52. Clause 7(6) deals with the eligibility requirements for the chair of the committee, who must be qualified as a barrister in England and Wales, or a solicitor of the Senior Courts of England and Wales and qualified for at least seven years. The person must not be a member of a National Institution or a national Church body, as defined in clause 24(2).
53. Clause 7(8) provides that during the transition period the committee is chaired by the Third Estates Commissioner until a chair is appointed by His Majesty.

54. Clause 7(9) provides a quorum of seven for the committee.

Clause 8 Payments by the Church Commissioners

55. Clause 8 deals with the Church Commissioners' payments to CENS. Clause 8(1) requires the Church Commissioners to determine the amount to pay from their general fund to CENS to allow CENS to properly exercise its functions and to pay that sum at the times and in the instalments it agrees with CENS. Subsections (2) to (5) set out the basis on which CENS is to be funded by the Commissioners.

56. Clause 8(2) sets out the two statutory funding streams through which the Church Commissioners will make payments to CENS. These continue the existing statutory funding provisions by which they currently make payment to the Archbishops' Council.

57. The first of these funding streams is set out in clause 8(2)(a). It covers amounts which could have been paid to the Archbishops' Council under section 2 of the National Institutions Measure 1998 immediately before the transfer of the Council's functions to CENS (i.e. sums for application for any purpose for which the Church Commissioners general fund was available immediately before 1 January 1999, with "particular regard" being had to "the making of additional provision for the cure of souls in parishes where such assistance is most required").

58. The second funding stream is set out in clause 8(2)(b) and covers amounts which could have been paid to the Archbishops' Council under section 1 of the Church of England (Miscellaneous Provisions) Measure 2018. (grants for the purposes of any of the Archbishops' Council's functions).

59. Accordingly, funds paid to CENS by the Commissioners under subsection (2)(a) will continue to be subject to the same restrictions as applied to funds currently provided by them to the Archbishops' Council under section 2 of the National Institutions Measure 1998. Funds paid to CENS by the Commissioners under subsection 2(b) will continue to be grants capable of being made for any of what were the Archbishops' Council's - and will become CENS's - functions (and therefore not subject to the restrictions that apply to funds provided under section 2 of the National Institutions Measure 1998).

60. Clause 8(3) requires CENS to submit to the Church Commissioners, in good time before the beginning of a period agreed with the Commissioners, a framework setting out its objectives for that period and how it proposes to meet those objectives. It must state how in particular it proposes to do so by exercising its power to make grants.

61. Clause 8(4) provides that the framework must also specify the amount of money that CENS expects to require for the funding period to properly exercise its functions (clause 8(4)(a)) and the proportion of that sum that it

requires from the Commissioners (clause 8(4)(b)). In addition, the framework must specify the proportion of that amount to be apportioned to the exercise of each of CENS' functions (clause 8(4)(c)).

62. Clause 8(5) requires the framework to include a certificate confirming the extent to which the amount paid by the Commissioners to CENS in the preceding year was used in accordance with the framework for the funding period concerned (clause 8(5)(a)) and a statement of the impact of using the amount in accordance with the framework (clause 8(5)(b)). Clause 8(5)(c) requires CENS to submit to the Commissioners such other information as they may require. This will ensure that in making payments to CENS the Commissioners are able to meet their duty as trustees of a grant-making charity.
63. Clause 8(6) requires that in determining the amount to pay to CENS the Church Commissioners must analyse the framework and weigh CENS' stated objectives and how it proposes to meet them against their other financial responsibilities.
64. Clause 8(7) provides that the Church Commissioners may not make a determination under subsection (1)(a) unless they have consulted CENS. (Section 6(1)(b) of the Church Commissioners Measure 1947 imposes a duty on its Assets Committee to recommend, in the light of actuarial advice, what sums are available for application or distribution by the Commissioners, and what sums should be appropriate to reserve and for reinvestment. That duty will remain applicable when the Commissioners determine the sums they pay to CENS.)
65. Clause 8(8) requires CENS, in preparing the funding framework, to lay before General Synod a summary of the proposals for inclusion in the framework and have due regard to the views expressed by Synod on its consideration of the proposals.
66. 'Due regard' in this context involves conscientiously taking into account the views expressed by Synod and giving them due weight. This provision gives General Synod a formal means of expressing its views on what is to be included in CENS' financial framework whilst the framework is at a formative stage.
67. Clause 8(9) repeals section 1 of the Church of England (Miscellaneous Provisions) Measure 2018 (which provides for the making of grants by the Church Commissioners to the Archbishops' Council). That provision will be redundant when the new Measure comes into operation.

Clause 9 Funding Framework: laying before General Synod, review.

68. Clause 9 (1)(a) requires the completed funding framework to be returned to the General Synod. Under clause 9(1)(b) the completed framework must be accompanied by a statement on how the views of Synod have affected the framework.
69. Clause 9(2) requires CENS to keep the framework under review. It must notify the Church Commissioners of any revisions (clause 9(2)(a)) and lay them before the General Synod (clause 9(2)(b)).
70. Clause 9(3) requires CENS, every five years, to arrange for an external body to carry out a review of the process it follows when exercising its power to make grants. Clause 9(4) provides for the external body to carry out the review under the oversight of the Synodical Scrutiny Committee, and, having completed the review, to report to CENS. Under clause 9(5) CENS must lay the report before the General Synod.

Clause 10 Archbishops' Council's functions

71. Clause 10(1)(a) makes provision for the transfer of the functions of the Archbishops' Council to CENS. A transfer of functions would be brought about by way of an order made by CENS and subject to approval by the General Synod (see clause 25). Clause 10(1)(b) makes provision for the dissolution of the Archbishops' Council, again by way of an order made by CENS with the approval of General Synod.
72. Clause 10(2) enables an order that transfers functions to CENS to appoint different times for different purposes so that the transfer of functions can be transitioned in stages.
73. Clause 10(3)(a) and (b) provide that the functions of the Archbishops' Council relating to safeguarding children and vulnerable adults and the functions of the Council carried out by its Racial Justice Unit must be transferred to CENS as soon as reasonably practicable after section 10 comes into force.
74. Clause 10(3)(c) and (4) require that the following functions must be transferred from the Archbishops' Council to CENS as soon as reasonably practicable after section 10 comes into force:
 - functions regarding the appointment of an auditor,
 - reporting on its activities to the General Synod, and
 - the preparation of the budget for the following year for the Synod's approval.

This is to enable a timely transfer of these functions.

75. Clause 10(6) provides that an order transferring the Archbishops' Council's budgetary functions to CENS – although subject to approval by the General Synod – cannot be amended by the Synod in a way which would vary either the amount to be paid to CENS by the Church Commissioners under clause 8, or the proposed application or distribution of that amount, as that would exceed the Synod's role in relation to the funding of CENS by the Commissioners.

Clause 11 Church of England Central Services' functions

76. Clause 11 deals with the transfer of the functions of ChECS to CENS. ChECS was established in 2013 to provide professional support services to the National Institutions and the wider church. It is jointly owned by the Archbishops' Council, the Church Commissioners and the Church of England Pensions Board.
77. Clause 11(1) provides that the trustees of ChECS may take whatever steps are necessary for its dissolution. Subsection (2) enables the Archbishops acting jointly to transfer the functions of ChECS to CENS by order (subject to approval by the General Synod) on an appointed day. Subsection (3) enables an order that transfers functions to CENS to appoint different times for different purposes so that the transfer of functions can be transitioned in stages. Subsection (4) specifies that the appointed day must be before ChECS is dissolved in order to allow the transfer to take place.

Clause 12 Church Commissioners' functions

78. Clause 12(1) enables the Archbishops acting jointly to transfer the functions of the Church Commissioners which are not retained functions under clause 13 to CENS by order (subject to approval by the General Synod) on an appointed day.
79. Clause 12(2) enables an order that transfers functions to CENS to appoint different times for different purposes so that the transfer of functions can be transitioned in stages.
80. Clause 12(3) provides further that the day appointed for the transfer of the Church Commissioners functions under section 28(1) of the Cathedrals Measure 2021 or of any functions otherwise relating to cathedrals must be no later than 3 years after the establishment of CENS. This is to ensure that sufficient time is given for all the Church Commissioners' functions in relation to cathedrals to pass to CENS.

Clause 13 Church Commissioners' retained functions

81. Clause 13 sets out the Church Commissioners' retained functions.

82. Clause 13(1) deals with the Church Commissioners' retained functions under the Episcopal Endowments and Stipends Measure 1943 (the 1943 Measure). Clause 13(1)(a) provides that the Church Commissioners will retain responsibility for the payment of bishops' stipends which are currently met by the Church Commissioners under section 1 (in respect of diocesan bishops) and section 5(1)(a) (in respect of suffragan bishops) of the 1943 Measure. The payment of diocesan bishops' stipends under section 1 of the 1943 Measure is secured by way of a charge on the Church Commissioners' general fund. The power of the Church Commissioners to pay suffragan bishops' stipends under section 5(1)(a) is discretionary.
83. The administrative responsibility for arranging and processing the payment of bishops' stipends will pass to CENS.
84. Section 5(b) of the 1943 Measure gives the Church Commissioners a discretionary power to provide an amount, by way of annual sum or otherwise, in respect of the expenses of the bishop or any suffragan bishop in connection with the performance of the duties of their office. This power has been exercised to meet various legal costs incurred by bishops in their corporate capacity.
85. Clause 13(1)(b) provides that the Church Commissioners will retain their functions in relation to the payment of costs incurred by a bishop in defending proceedings brought against the bishop in his or her corporate capacity or in dealing with threats to bring such proceedings. These include the costs in relation to satisfying judgments or making settlements (clause 13(4)). Clause 13(1)(c) provides further that the Church Commissioners will retain the payment of costs incurred by a bishop in bringing or considering whether to bring proceedings in the bishop's corporate capacity.
86. All other functions of the Church Commissioners in relation to bishops' costs under the 1943 Measure will pass to CENS.
87. Clause 13(2) sets out the additional functions which shall be retained by the Church Commissioners. These are:
- the payment of costs incurred by a bishop under section 63 of the Clergy Conduct Measure 2025¹ (clause 13(2)(a));
 - the payments of costs incurred by a bishop under section 58(a) of the Ecclesiastical Jurisdiction Measure 1963 (clause 13(2)(b));
 - the functions in relation to the management and ownership of the Church Commissioners' assets, and making distributions there from (clause 13(2)(c));

¹ Subject to the Clergy Conduct Measure passing the Final Approval Stage and receiving parliamentary approval.

- the functions under the Church of England Pensions Measure 2018 (clause 13(2)(d));
 - the payment of the stipends of the dean and two residentiary canons under section 28(1) of the Cathedrals Measure 2021 (clause 13(2)(e));
 - the functions relating to any liability of the Church Commissioners for the repair of church chancels (clause 13(2)(f)), and
 - the funding of CENS under clause 8 of this draft Measure (clause 13(2)(g)).
88. Clause 13(3) provides that the Church Commissioners will discharge its retained functions under subsections (1) and (2) by making payments from its general fund.
89. Clause 13(5) and (6) apply the provisions in this clause in respect of the Church Commissioners' retained functions which relate to bishops to the diocese in Europe and the Isle of Man respectively.

Clause 14 and Schedule 2 Transfer of employees and property etc

90. Clause 14(1) provides that an order made in relation to the transfer of any functions to CENS from the Archbishops' Council, ChECS or the Church Commissioners under clauses 10 to 12 must include provision for the transfer to CENS of the rights and liabilities under the employment contracts of employees of the transferor so far as that is necessary. That will mean that CENS takes over responsibility as an employer of relevant staff where functions are transferred.
91. Clause 14(2) introduces Schedule 2 (transfer of employees). Schedule 2 sets out the provisions necessary to effect the transfer of contracts of employment of those employees employed by the Archbishops' Council, ChECS and the Church Commissioners who will transfer to CENS.
92. The reduction in the number of NCIs employing members of the Church Administrators Pension Fund could create an 'employer cessation event' for the purposes of section 75 of the Pensions Act 1995. This would trigger employer exit debts which would be payable by the discontinuing NCIs. Clause 14(4) makes provision so that if a relevant NCI requests, before it ceases to exist, that it wishes its liabilities for pensions to become liabilities of CENS, those liabilities will transfer to CENS immediately before the relevant NCI is dissolved under the Measure.

Clause 15 Further provision on transfers

93. This clause provides further provision relating to the transfer of functions to CENS. Clause 15(1) enables an order made under clauses 10 to 12 for the transfer of functions to CENS to make incidental, consequential, supplementary, transitional or transitory provision. This will enable a transfer

order to ensure that there is continuity in the exercise of a transferred function, and that any legislation or other legal documentation can be updated to reflect the transfer to CENS: see subsection (2).

94. Subsection (3) ensures that the functions which can be transferred to CENS under this Measure include any functions that might be conferred on the Archbishops' Council, the Church Commissioners or ChECS after this Measure is passed.
95. Subsection (4) makes provision for an order under clauses 10 to 12 to transfer a function to a specified committee of CENS.
96. Subsection (5) ensures that legal documents, including contracts, which include a reference to the Archbishops' Council, the Church Commissioners or ChECS are, after a transfer of functions has taken place, read as references to CENS.
97. Subsections (6) and (7) carry over existing provisions in legislation regulating the legal profession so that certain exemptions enjoyed by the Church Commissioners (along with government departments and the City of London) apply to CENS.

Clause 16 Church Commissioners' Constitution

98. The members of the Board of the Church Commissioners (established by section 5 of the Church Commissioners Measure 1947) are the charity trustees of the Church Commissioners. The NGPB recommended a reduction in the membership of the Church Commissioners' Board from 27 members to 16-17 members as well as several changes to the board structure to better align with recommended governance best practice. Clause 16 amends the Church Commissioners Measure 1947 (the 1947 Measure) to give effect to these recommendations.
99. Clause 16(1) reduces the number of Commissioners by amending paragraph 1(b) of Schedule 1 to the 1947 Measure so that the following persons will be Commissioners (in addition to the office holders listed in paragraph 1(a) of that Schedule):
 - a. the Archbishops of Canterbury and York;
 - b. the First and Second Church Estates Commissioners (but not the Third Church Estates Commissioner);
 - c. two persons elected by and from the House of Bishops;
 - d. two clerks in Holy Orders (but not in episcopal orders), neither of whom need be a member of the House of Clergy, elected by the members of that House;
 - e. two lay persons, neither of whom need be a member of the House of Laity, elected by the members of that House;
 - f. seven persons, of whom three are nominated by His Majesty and four by the committee of the Commissioners which advises them on

governance and nominations, at least one of whom is a barrister in England and Wales, or a solicitor of the Senior Courts of England and Wales, who has been qualified as such for at least the preceding seven years.

100. The Commissioners' Board will consist of the persons listed in paragraphs a. to f. above, except for the Archbishop of Canterbury. Clause 16(2) makes provision for the Archbishop of Canterbury to become the President of the Church Commissioners. Subsection (3) provides that the Archbishop will no longer serve as a member of the Board (i.e. as a charity trustee of the Commissioners) or as chair of the Board. But he or she would, as President, continue to chair any general meetings of the Commissioners (e.g. the annual general meeting at which all Commissioners, whether members of the Board or not may attend and vote).
101. Clause 16(5) enables the Third Church Estates Commissioner to continue as a member of the Church Commissioners despite the amendment made by subsection (1), until the appointment of the chair of the Mission and Pastoral Adjudication Committee under section 7(1)(a) takes effect. (See Schedule 1, paragraph 1(9) and (10) as to the role of the Third Church Estates Commissioner as an initial member of CENS.)

Clause 17 Church Commissioners' Assets Committee membership

102. Clause 17 amends the membership of the Church Commissioners' Assets Committee.
103. Subsection (2) provides for the appointment of financial specialist Commissioners to the Assets Committee to be made by the Commissioners' Board instead of by the Archbishop of Canterbury.
104. Clause 17(4) makes provision for the Assets Committee to co-opt up to two non-Commissioner members, with relevant investments skills and experience.

Clause 18 Eligibility for membership etc

105. Clause 18(1) stipulates that a person may not be elected or appointed as a member of more than one National Institution. The provision does not apply to *ex-officio* members so the Archbishops can be on more than one body. And it does not apply so as to prohibit members from being on more than one committee of any one or more of the National Institutions (as being a member of a committee does not necessarily involve being a member of the parent National Institution).
106. Clause 18(2) provides that an elected or appointed member of a National Institution may not be Prolocutor of the Convocation of Canterbury or York, or the Chair or Vice-Chair of the House of Laity of the General Synod. (It is intended that these office holders will exercise their roles in a different way,

including as members of the Synodical Scrutiny Committee: see on clause 20 below.)

107. Clause 18(3) makes provision for a National Institution to remove an elected or appointed member by resolution and such resolution may only be carried by a vote of at least three-quarters of the members of the Institution present and voting in favour.
108. Clause 18(4) makes further provision so that a person removed as a member of an NCI under subsection (3) is not disqualified from standing again as a member of that or any other National Institution. It also makes it clear that the provisions of general charity law on disqualification as a charity trustee are unaffected.

Clause 19 Belonging and Inclusion

109. Clause 19 deals with improving the diversity of National Church structures. Clause 19(1) requires each National Institution to prepare and publish a Diversity Charter in order to promote principles of good governance and the fulfilment of its charitable objects.
110. Clause 19(2) sets out more detail about the diversity charters and stipulates that they must set out each National Institution's objectives for improving diversity amongst its members and members of its committees. Each National Institution must also promote and encourage good practice on diversity within that institution.
111. Clause 19(5) gives the National Institutions power to revise their diversity charters.
112. Clause 19(3) places a duty on each National Institution to monitor diversity amongst its members.
113. Each National Institution is also required to include in its annual report to be laid before General Synod details of progress made towards achieving the objectives set in its diversity charter and the results of the monitoring required under Clause 19(3).

Clause 20 Synodical Scrutiny Committee

114. Clause 20(1) requires the General Synod to establish a Synodical Scrutiny Committee.
115. Subsections (2) to (4) set out the committee's functions, which are to scrutinize the performance of each National Institution and the quality of its decision making, by securing regular engagement between members of the Committee and each National Institution.

116. The Synodical Scrutiny Committee will also oversee the quinquennial external review of CENS' exercise of its grant-making powers (see clause 9(4)).
117. The membership of the committee is set out in clause 20(5) and comprises the chair and vice-chair of the House of Laity, the Prolocutors of the provinces of Canterbury and York, one person elected by and from the Standing committee of the House of Bishops who is not a member of a National Institution and two members elected by and from the House of Clergy and House of Laity taken together so as to form a single electorate. The chair of the House of Laity is *ex-officio* chair of the committee (clause 20(6)).

Clause 21 Committee of Inquiry

118. Clause 21(1) enables the General Synod to convene by resolution a Committee of Inquiry to conduct an inquiry into a National Institution where the Synod has serious concerns that the Institution has suffered a loss of money or assets or damage to its reputation.
119. Clause 21(2) provides that a motion for a resolution may only be moved by a member of the Synodical Scrutiny Committee appointed by and from that committee, who may do so on the committee's own initiative or on receipt of a request from at least 100 members of General Synod.
120. Clause 21(3) provides that a resolution must set out the terms of reference for the inquiry.
121. Clause 21(4) requires that a motion for a resolution under this section must be debated in a sitting of the Synod that includes all three Houses and gives a representative of the National Institution concerned the right to speak in the debate.
122. Clause 21(5) stipulates that a majority of at least two thirds of those members of the Synod present and voting on a counted vote of the whole Synod conducted in accordance with Synod's Standing Orders is required for a resolution to be carried under these provisions.
123. Clause 21(6) provides that General Synod may make further provision in its Standing Orders for the procedure on a motion under the clause.

Clause 22 Committee of Inquiry: inquiry and report

124. Clause 22(1) provides for the membership of the committee which shall consist of each member of the Synodical Scrutiny Committee and no more than four members appointed by the Appointments Committee.
125. Clause 22(2) provides that the Committee of Inquiry must carry out an inquiry in accordance with its terms of reference and provide a written report to the Synodical Scrutiny Committee. Clause 22(3) makes further provision

regarding the report, including the identification of lessons learned and the making of recommendations.

126. Clause 22(4) & (5) make provision for the distribution and publication of the Report.
127. Clause 22(6) enables a member of the Synodical Scrutiny Committee who has ceased to be a member of that committee to continue on the Committee of Inquiry in order to complete work on an inquiry which has begun.
128. Clause 22(7) enables General Synod to make further procedural provision regarding the work and procedure of the Committee of Inquiry and the procedure on a motion for a resolution for convening the Committee.
129. The provisions in Clause 22(8) make it clear that the Committee of Inquiry processes do not invalidate anything done by a National Institution or restrict the exercise of its functions. While a Committee of Inquiry may identify lessons to be learned and make recommendations, it is for the relevant National Institution to consider and respond to those lessons and recommendations. The duty of general management of the relevant National Institution as a charity must remain with the charity trustees (who are subject to regulation by the Charity Commission and to the jurisdiction of the High Court).

Clause 23 Accounts, Reports etc

130. Clause 23(1) deals with the making of annual reports by National Institutions on their work and proceedings and any decisions taken as to future work. These are to include progress reports on Diversity under Clause 19. Each National Institution must lay its annual report before the General Synod before the end of the following year without specifying a particular point in the year. This gives the National Institutions, which have different accounting practices, greater flexibility and allows them to work in a way that best meets their operational needs.
131. Clause 23(2) provides for each National Institution to cause its auditor's report and accounts for each year to be laid before General Synod before the end of the following year.
132. Clause 23(3) gives the General Synod a power to request reports from a National Institution on any matter relating to its functions.
133. Clause 23(4) requires the General Synod to make provision in its Standing Orders giving the Synod an opportunity at each group of sessions to consider reports and any other matters laid before it or referred to it by a National Institution, and the power to question a representative of a National Institution in relation to any report or other matter referred to it.

Clause 24 Interpretation

134. Subsections (1) to (4) define various words and phrases in the Measure.
135. Clause 24(5) provides a broad definition of diversity which may be read as differences between individuals and is not limited to the protected characteristics under the Equality Act 2010.
136. Clause 24(7) makes provision for the functions of an archbishop to be exercisable by the other archbishop where there is a vacancy in an archbishopric. This will allow functions which are required to be carried out jointly by the archbishops to be carried out by a single archbishop where there are not two archbishops in office.

Clause 25 Procedure on Orders

137. This clause sets out the procedure for making an order under the Measure.
138. Clause 25(2) stipulates that an order may not be made until a draft order has been placed before and approved by the General Synod with or without amendments. If a draft order is not approved by the General Synod, an Order cannot be made. If the Synod approves a draft Order, the approved draft is referred to the person with the order making power.
139. Clause 25(3) provides that where a draft order has been referred to the person with the order making power the person must execute the order if no amendments were made by the Synod. Where amendments are made by the Synod, the person with the order making power must decide whether to execute the order as amended or to withdraw it for further consideration.
140. Clause 25(4) states that an order does not come into force until it is executed by the person with the order making power.
141. Clause 25(5) provides that where the Business Committee determines that a draft order does not need to be debated by the Synod, the draft is to be treated as approved without amendment unless a member of the Synod gives notice in accordance with its Standing Orders that the member wishes the draft order to be debated or wishes to move an amendment to it. This is the usual provision for deemed approval by the General Synod of regulations, orders and other secondary legislation.
142. An order made under this section takes the form of a statutory instrument and is subject to the negative resolution procedure in Parliament (clause 25(6)).

Clause 26 Short title, Commencement and extent

143. Clause 26 provides for the citation of the draft Measure, for its commencement (including the making of transitional, transitory and saving provisions) and for its territorial extent.

Schedule 1 CENS.

Paragraph 1: Membership of CENS.

144. Paragraph 1(1) stipulates that CENS shall have no more than 15 members.
145. Paragraph 1(2) provides that the members of CENS are:
- (a) the Archbishop of Canterbury,
 - (b) the Archbishop of York,
 - (c) two persons elected by and from the House of Bishops,
 - (d) two persons elected by and from the House of Clergy,
 - (e) two persons elected by and from the House of Laity,
 - (f) a person appointed as chair, and
 - (g) no more than six other appointed members.
146. Paragraph 1(3) provides that the appointment of the first chair is to be made by the Archbishops of Canterbury and York acting jointly after consulting the Appointments Committee.
147. Paragraph 1(4) makes provision so that the first appointed members of CENS (under paragraph (g) above) are made by the Archbishops of Canterbury and York acting jointly after consulting with the chair and the Appointments Committee.
148. Paragraph 1(5) requires that all subsequent appointments of the chair and the appointed members of CENS are to be made by CENS itself on the recommendation of the Governance and Nominations Committee and with the approval of General Synod
149. Paragraph 1(6) makes provision for the appointment of a deputy chair.
150. Paragraph 1(7) makes provision for the chair of CENS to be an *ex-officio* member of General Synod.
151. Paragraph 1(8) provides that the Archbishops in making the first appointments of appointed members to CENS must have due regard to securing a balance between the benefits of continuity of membership on the transition from the old National Church Institutions and the importance of appointing a diverse range of people with a range of knowledge, skills and experience.
152. Paragraphs 1(9) & (10) deal with the Third Estates Commissioner, who will be an *ex officio* member of CENS on its establishment and continue in post until

the appointment of the Chair of the MPAC under clause 7(1)(a). This is to ensure continuity during the transition period.

Paragraph 2: Eligibility for membership

153. Paragraph 2(1) requires the chair of CENS to be an actual communicant as defined under Rule 83(2) of the Church Representation Rules.
154. Paragraph 2(2) requires the appointed members of CENS to be members of the Church of England or of a Church which subscribes to the doctrine of the Holy Trinity.
155. Paragraph 2(3) & (4) provide that a majority of the members of CENS (excluding the archbishops but including the elected members) must be members of General Synod and must be lay persons.

Paragraph 3: Term of Office

156. Paragraph 3(1) provides that elected members hold office for up to three years (as decided by CENS).
157. Paragraph 3(2) provides for appointed members to hold office for up to three years (as decided by CENS in respect of each appointment).
158. Paragraph 3(3) provides that members may not hold office for a period of more than 9 continuous years, unless an additional 12-month extension is granted under paragraph 3(4). Paragraph 3(3) stipulates that after the continuous 9-year period (or the extension to that period, if granted), a member is not eligible for election or appointment until three years from the time they ceased to hold office has elapsed.
159. However, under paragraph 3(5) a member may continue to hold office if there is a delay in the election or appointment of a successor.
160. Paragraph 3(6) makes provision regarding the persons who are first appointed members to CENS and who held office as a member of any of the National Church Institutions immediately before the creation of CENS, so that the period for which they have already held office is treated as a period of membership of CENS and their term of office as a member of CENS is limited accordingly. Paragraph 3(7) limits the terms of the first appointees to three consecutive terms, regardless of whether the period of each of those terms was less than three years.

Paragraph 4: Vacating Office

161. Paragraph 4(1) provides that the chair may resign by giving notice in writing to the Archbishops of Canterbury and York and paragraph 4(2) provides that other members of CENS (other than the Archbishops) may resign by giving notice in writing to the chair.

162. Paragraph 4(3) provides for the membership of an elected or appointed member who fails to attend for a period of six consecutive months to be terminated. In these circumstances the member will be deemed to have resigned unless the chair is satisfied that the member had a reasonable excuse for not attending.
163. Sub-paragraphs (4) to (6) deal with the resignations of CENS members who are members of General Synod. A Synod member who resigns from CENS does not resign his or her Synod membership merely by virtue of resigning as a member of CENS (paragraph 4(4)). However, where a member elected to CENS from one of the Houses of General Synod ceases to be a member of that House (other than by reason of the dissolution of Synod) then their membership of CENS is terminated (paragraph 4(5)). Where a member of CENS ceases to be a member of a House of the General Synod as a result of the dissolution of the Synod they do not cease to be a member of CENS unless they are no longer a member of that House when the new Synod is called together (paragraph 4(6)).
164. Paragraph 4(7) refers to the termination of a person's membership of CENS when they are disqualified from acting as a charity trustee. The termination of membership by reason of such disqualification cannot be prevented or delayed by any of the provisions in Schedule 1 concerned with terms of office or vacating office.
165. Paragraph 4(8) is a cross reference to clause 18(3) which provides for the removal of a member of CENS.

Paragraph 5: Casual vacancies.

166. Paragraph 5(1) and (2) set out the method and conditions which apply when a casual vacancy arises amongst elected and appointed members respectively. A casual vacancy among the elected members is to be filled by a fresh election. A casual vacancy among the appointed members is to be filled by a fresh appointment.
167. Paragraph 5(3) limits the term of a member elected or appointed to fill a casual vacancy to not more than three years, the period in question being determined by CENS.

Paragraph 6: Committees

168. Paragraph 6(1) requires CENS to establish a Governance and Nominations Committee (paragraph 6(1)(a)), an Audit and Risk Committee (paragraph 6(1)(b)) and a Mission and Pastoral Adjudication Committee (paragraph 6(1)(c)).
169. Paragraph 6(2) gives CENS the power to establish other committees, and paragraph 6(3) permits a committee established under sub-paragraph (1) or (2) to establish sub-committees.

170. Paragraph 6(4) enables a committee established under sub-paragraph (2) to appoint persons who are not members of CENS to the committee.
171. Paragraph 6(5) enables a sub-committee established under sub-paragraph (3) to include persons who are not members of the committee which established it and persons who are not members of CENS to the sub-committee.
172. Paragraph 6(6) requires CENS to publish terms of reference for each of the statutory committees under paragraph 6(1), but these terms of reference must be compatible with the other provisions in the Measure regarding the committee.
173. Paragraph 6(7) requires CENS to publish terms of reference and, where applicable, statements of delegated functions in respect of each committee that it establishes under paragraph 6(2).
174. Paragraph 6(8) requires the committee establishing a sub-committee under paragraph 6(3) to publish the terms of reference and, where applicable, statements of delegated functions in respect of each sub-committee that it establishes.

Paragraph 7: Chief executive officer

175. Paragraph 7(1) requires CENS to appoint a Chief Executive Officer.
176. Paragraph 7(2) provides that the Chief Executive Officer cannot serve as Secretary General of the General Synod or Secretary to the House of Bishops.
177. Paragraph 7(3) provides that the Chief Executive Officer is to report to the chair of CENS.
178. The first appointment to the post is to be made by the chair of CENS and the Archbishops of Canterbury and York acting jointly (paragraph 7(4)) and each subsequent appointment is to be made by CENS on the recommendation of the Governance and Nominations Committee (paragraph 7(5)).

Paragraph 8: Delegation

179. Paragraph 8 confers a power on CENS to delegate its functions. CENS may delegate a function to a member of CENS, a committee, the chief executive officer, or another member of staff (paragraph 8(1)). A committee of CENS may delegate a function to a sub-committee or a member of staff of CENS (paragraph 8(2)) and a sub-committee of CENS can delegate a function to a member of staff of CENS (paragraph 8(3)).

Paragraph 9: General incidental power

180. Paragraph 9 gives CENS the power to do anything that individuals generally may do. This is to enable CENS, on the transfer of functions from the Archbishops' Council, the Church Commissioners and ChECS to carry out the full range of functions which are currently carried out by those bodies.

Paragraph 10: Proceedings

181. Paragraph 10(1) provides that the quorum of a meeting of CENS is eight.
182. Paragraph 10(2) provides that the validity of proceedings of CENS is not affected by a vacancy in its membership or a defect in a member's appointment.
183. Paragraph 10(3) provides for CENS to regulate its own procedure.

Paragraph 11: Remuneration

184. Paragraph 11 permits CENS to remunerate and to pay allowances and compensation for loss of office to its chair (paragraph 11(1)) and to make equivalent payments to a member of its staff (paragraph 11(2)).

Paragraph 12: Execution of documents

185. Paragraph 12 deals with the execution of documents and makes provision relating to the application of the seal of CENS, and the authentication and authorization of documents by seal or signature.

Schedule 2 Transfer of Employees

186. For Schedule 2, see the notes above on section 14.

The Legal Office

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