

GENERAL SYNOD OF THE CHURCH OF ENGLAND
AMENDING CANON NO. 43 (MISCELLANEOUS PROVISIONS)
EXPLANATORY NOTE

Introductory

1. Amending Canon No. 43 makes miscellaneous provisions to the Canons of the Church of England. It complements the Church of England (Miscellaneous Provisions) Measure, passed by the General Synod at the July 2023 group of sessions and awaiting its Parliamentary stages.

Demise of the Crown

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

Miscellaneous amendments

Services in parish churches

3. *Paragraph 6* removes an anomaly that arose from 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 a backstop that would prevent a church from ceasing to be used for public worship altogether when a decision is taken on where services should take place. If a church is to cease to be used for public worship altogether, the policy is that it be closed for worship under the Mission and Pastoral Measure 2011.
4. *Paragraph 6* accordingly amends Canon B 11 (morning and evening prayer) and Canon B 14 (Holy Communion) to reinstate the backstop preventing a decision from leaving a church ceasing to be used for public worship altogether.

Marriage

5. *Paragraph 7* amends Canons B 31 and B 32 (impediments to marriage and to solemnization of Holy Matrimony) in consequence of the change to the law made by the Marriage and Civil Partnership (Minimum Age) Act 2022. That Act raised the minimum age at which a person may lawfully marry from 16 to 18 and came into force on 27th February 2023.
6. *Paragraph 8* amends Canon B 34 (legal preliminaries to marriage) and Canon B 36 (services after civil marriage) in consequence of recent amendments to the Marriage Act 1949 to replace a superintendent registrar's certificate with a marriage schedule.

Lay residentiary canons

7. *Paragraph 9* amends Canon C 21 (qualifications for appointment as a residentiary canon) in consequence of section 7 of the current Church of England (Miscellaneous Provisions) Measure (referred to in paragraph 1 of this note). Section 7 of that Measure inserts the following new section 14A in the Cathedrals Measure 2021—

“14A Lay residentiary canons

- (1) A person who has been admitted to the office of reader or as a lay worker for at least six years and is licensed to exercise office or serve as such is capable of being appointed as a residentiary canon of a cathedral but only if, and in so far as, the constitution so provides.
 - (2) A reference in this or any other Measure to a lay residentiary canon of a cathedral is a reference to a reader or lay worker appointed under provision included in the constitution by virtue of this section.
 - (3) This section and any provision included in the constitution by virtue of it have effect in spite of—
 - (a) section 10 of the Act of Uniformity 1662 (which provides that only an episcopally ordained priest can be admitted to an ecclesiastical promotion or dignity), and
 - (b) section 27 of the Ecclesiastical Commissioners Act 1840 (which requires a person to have been in holy orders for at least six years to be capable of appointment to a residentiary canonry).”
8. The amendment to Canon C 21 reflects the condition in subsection (1) of that new section 14A 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.

Rural deans

9. *Paragraph 10* amends Canon F 17 (requirements for record-keeping of church property) and Canon F 18 (survey of churches) to enable a person other than the rural dean to act as the deputy of the archdeacon under those Canons. In many places, the office of rural dean is known as that of “area dean”. Under section 12(4) of the Church of England (Miscellaneous Provisions) Measure 2000, the diocesan bishop may make a declaration that that is to be the case. Accordingly, a reference in legislation to a rural dean is to be read as including a reference to an area dean.
10. There may be cases where the rural dean is not available to act as deputy to the archdeacon, causing a delay to when the inspection of records or church buildings can take place. The amendments in *paragraph 10* would enable somebody else to be appointed as deputy to archdeacon for those purposes.

Ecclesiastical courts

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

Interpretation

12. *Paragraph 12* amends Canon I on interpretation so as to provide that the rules for the interpretation of Canons also apply to the interpretation of instruments made under a Canon (for example, the regulations made under Canon B 12 on Holy Communion or under Canon C 30 on safeguarding).

Updating statutory and other references

13. *Paragraph 13* amends Canon B 2 (approval of forms of service) and Canon B 42 (language of divine service) so as to replace references to the Cathedrals Measure 1999 with references to the Cathedrals Measure 2021 and to remove references to the Cathedrals Measure 1963.
14. *Paragraphs 14 and 16* amend Canon C 22 (archdeacons) and Canon F 18 (survey of churches) so as to replace references to the Inspection of Churches Measure 1955 with a reference to the consolidated provisions in the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.
15. *Paragraph 15* amends Canon E 6 (readers) and Canon E 8 (lay workers) in consequence of Amending Canon No. 42 (safeguarding) so as to replace references to diocesan safeguarding advisors with references to diocesan safeguarding officers.
16. *Paragraph 17* amends Canon G 4 (registrars) so as to update the reference to solicitors and barristers currently qualified in England and Wales.

Legal Office
Church House, Westminster
July 2023