

PARLIAMENTARY REPORT

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ASSISTED DYING

In the Parliamentary report for February to May I wrote that Lord Falconer's Assisted Dying Bill, reintroduced under the new ballot procedure for private Peers' bills, had little chance of becoming law in the current session. As it turned out, that judgment was a little premature, because Rob Marris came first in the Commons ballot for private Members' bills and decided to introduce an Assisted Dying (No 2) Bill in similar terms to Lord Falconer's. In the event, however, when his Bill had its second reading debate on 11 September – the first occasion on which the Commons had had an opportunity to debate the matter since 1997 – it was decisively defeated, by 330 votes to 118.

CHARITY LAW

The Essential Trustee

In July the Charity Commission for England and Wales published an updated version of *The Essential Trustee: what you need to know, what you need to do* (CC3), first published in March 2012. The new version has been the subject of widespread consultation and is a considerable improvement on the document it replaces. Crucially, as well as being available online it is also published as a PDF file – which means that no trustee can have a legitimate excuse for not reading it.¹ Whether or not trustees will in fact do so remains to be seen.

Guidance for Scottish charity trustees

In September the Office of the Scottish Charity Regulator (OSCR) announced a consultation on the revised version of its *Guidance for Charity Trustees*, which has been updated in light of the OSCR's experience of regulating the sector over the past nine

1 Online at <<https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3/the-essential-trustee-what-you-need-to-know-what-you-need-to-do>>, accessed 21 June 2015; PDF version available at <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444518/CC3.pdf>, accessed 21 June 2015.

years.² Key features of the updated guidance include a less formal tone, illustrative examples and web-based sections that allow users to navigate between areas of particular interest to their own organisations. The consultation closed on 18 December.

Accounting and reporting by charities in Northern Ireland

In September and October the Department for Social Development held an eight-week consultation on how the accounts of charities in Northern Ireland should be prepared and scrutinised.³ The proposed Regulations published with the consultation document make provision for the preparation and scrutiny of charity accounts and annual reports and would require registered charities to file their annual accounts with the Charity Commission for Northern Ireland. The consultation also sought views on whether the income levels that determine how charities' accounts are scrutinised should be increased.

CIVIL PARTNERSHIP IN SCOTLAND

In September the Scottish Government launched an online consultation on the future of civil partnership in Scotland, following the coming into force of the Marriage and Civil Partnership (Scotland) Act 2014 and the introduction of same-sex marriage.⁴ The options under consideration were: to leave things as at present, with civil partnerships remaining available to same-sex couples only; to change the law so that no new civil partnerships might be entered into in future; or to introduce opposite-sex civil partnership.

The consultation was to end on 15 December. The Government stated that it did not have a view at this stage on which of the first two options should be followed; however, it was unconvinced that there was any great demand for opposite-sex civil partnership. In any event, it declared that it was not the intention to interfere with *existing* civil partnerships: there would be no obligation for current civil partners to convert their relationships into marriage.

ECCLESIASTICAL PROPERTY (EXCEPTIONS FROM REQUIREMENT FOR CONSENT TO DEALINGS) ORDER 2015

The Order provides that the consent of the relevant diocesan board of finance is not required for certain property transactions by parochial church councils (PCCs) or certain ecclesiastical trusts.⁵

2 Available at <<http://www.oscr.org.uk/charities/guidance/draft-charity-trustee-guidance>>, accessed 1 October 2015.

3 Available at <<https://www.dsdni.gov.uk/sites/default/files/consultations/dsd/accounting-and-reporting-by-charities-consultation.pdf>>, accessed 2 October 2015.

4 Available at <<http://www.gov.scot/Publications/2015/09/4223>>, accessed 2 October 2015.

5 Available at <http://www.legislation.gov.uk/uksi/2015/1545/pdfs/ukxi_20151545_en.pdf>, accessed 21 July 2015.

Sections 1 and 2 of Article 2 provide that consent is not required for a transaction if the consideration is less than the annual unrestricted income of the PCC or trust concerned, subject to an overall ceiling of £250,000, above which consent will always be required. Article 2(3) provides that the council or trust concerned can rely on the exception only if its most recent accounts were prepared during the period of 22 months before the completion of the transaction. That period is in line with the Charity Commission's requirement that registered charities required to file accounts must do so within ten months of their year end.

Article 2(4) provides that consent will always be required if the transaction involves a place of worship or a churchyard or land adjacent to them.

THE EQUALITY AND HUMAN RIGHTS COMMISSION ON RELIGION AND BELIEF

The Equality and Human Rights Commission continued its work on the adequacy of the laws protecting religion or belief, subsequent to its call for evidence mentioned in the last issue. Various pieces of draft guidance were discussed and commented upon by an informal advisory group (of which your correspondent was a member) and it was hoped to produce a final version in early 2016.

INCENSE AND THE PSYCHOACTIVE SUBSTANCES BILL

During the report stage of the Psychoactive Substances Bill in the House of Lords, Lord Howarth of Newport raised the possibility that, because the Bill was drafted in intentionally wide terms, incense might be inadvertently declared a 'psychoactive substance'; he warned that there was a danger that its use in public worship might be unintentionally criminalised.⁶

The Churches' Legislation Advisory Service and the Association of English Cathedrals both voiced concerns about that possibility in memoranda to the Commons Home Affairs Committee, which was holding a brief inquiry on the terms of the Bill. The result was that the Minister of State for Policing, Crime, Criminal Justice and Victims, Mike Penning, replied with an assurance that it was not the Government's intention to criminalise the use of incense in worship and undertook to put that on the record during the Commons committee proceedings.⁷

6 HL Deb 14 July 2015, col 469.

7 His letter is available at <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464273/2015-09-21-Letter-to-CLAS-re-incense.pdf>, accessed 2 October 2015.

MARRIAGE LAW IN ENGLAND AND WALES

In December 2014 the Government published its response to the consultation on marriages by non-religious belief organisations.⁸ In short, though ministers did not seem to be against humanist marriages in principle, they reckoned that the law in England and Wales on licensing buildings for the solemnisation of marriages was so complex that it was ‘necessary to carefully consider the legal and technical requirements concerning marriage ceremonies and registration and the range of relevant equality issues’.⁹ The Government therefore asked the Law Commission to conduct a review of the law governing how and where people can get married in England and Wales. The question underlying the review would be whether the current law, which had evolved over a long period, provided a fair and coherent legal framework for enabling people to marry.

During the period under consideration the Commission has been undertaking the scoping phase of the review of the law of marriage. The Commission has said that is *not* considering:

- i. Changing the age of consent or the restrictions on marrying within the prohibited degrees;
- ii. Whether or not religious groups should be obliged to solemnise marriages of same-sex couples; or
- iii. The rights and responsibilities assumed by married couples, such as the financial entitlements of surviving spouses or the consequences of divorce.

The Commission was expecting to complete the scoping exercise by the end of 2015 and to publish its initial findings shortly afterwards. It would then be for the Government to consider the next steps and the further involvement of the Commission.

SUNDAY TRADING

In August the Government launched the expected consultation on devolving – and thereby relaxing – Sunday trading rules.¹⁰ It was not intended to interfere with the present restrictions on trading on Easter Sunday or on Christmas Day, nor to vary workers’ rights under the Employment Rights Act 1996 ‘other than

8 *Marriages by Non-Religious Belief Organisations: summary of written responses to the consultation and Government response*, available at <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388986/marriages-by-non-religious-belief-organisations.pdf>, accessed 2 October 2015.

9 *Ibid.*, para 72.

10 Available at <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/451376/BIS-15-359-consultation-on-devolving-sunday-trading-rules.pdf>, accessed 2 October 2015.

that which might be required to ensure the same level of protection applies following any amendment to the current Sunday trading restrictions'. The Executive Summary notes that 'The current Sunday trading rules were established over 20 years ago in the Sunday Trading Act 1994' and goes on to point out that, since then, internet sales have risen to 11.5 per cent of all retail sales, compared to 2.8 per cent nearly a decade ago, when statistics were first collected.

Reaction from the churches (and from USDAW, the shop-workers' union) was almost universally unfavourable; however, the authors of the consultation appeared to expect the proposals to be welcomed.

TURBANS IN THE WORKPLACE

Under the previous law, though Sikhs wearing turbans have not been required to wear motorcycle helmets and in the construction industry have been exempted from rules requiring protective headgear,¹¹ those working in less dangerous environments such as factories and warehouses have not until now been exempt – which means that Sikhs in many jobs who chose to wear a turban rather than the required cranial protection risked disciplinary action or dismissal.

Sections 6 and 7 of the Deregulation Act 2015, which came into force on 1 October,¹² have extended the existing exemption in the Employment Act 1989 to all workplaces, with two qualifications:

- i. Should an individual suffer injuries as a consequence of not wearing cranial protection, employers will be legally protected through the extension of limited liability; and
- ii. There are exclusions for the emergency response services and the military.

The exclusions apply only in hazardous situations where wearing a safety helmet is considered necessary for operational or health and safety reasons.

AND FINALLY . . .

Though strictly speaking outside the reporting period, it would be remiss not to record that on 26 October the Rt Revd Rachel Treweek, Bishop of Gloucester, was introduced into the House of Lords: the first woman to sit as a Lord Spiritual.

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11 Road Traffic Act 1988, s 16(2); Employment Act 1989, ss 11 and 12.

12 The Act received Royal Assent on 26 March.