

## RECENT LEGISLATIVE DEVELOPMENTS

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The General Synod met for a one day session on 22 February 1994 to promulge Canon C 4B and Amending Canon No 13 made pursuant to the Priests (Ordination of Women) Measure 1993. Promulgation of both Canons was agreed by the Synod on a show of hands without a division being called for. The Episcopal Ministry Act of Synod [see (1994) 3 Ecc. LJ 190] was also solemnly affirmed and proclaimed as an Act of Synod.

A number of applications for Judicial Review were instituted both before and after 22 February, mostly concerning the Archbishops of Canterbury and York in their capacity as Presidents of the General Synod. The applications, some of which went to the Court of Appeal, were all unsuccessful. The first ordinations of women to the priesthood took place on 26 March and, to date, some six hundred women have been ordained.

Already a number of questions have been raised concerning the implementation of the legislation and it may be useful if the answers given have a wider circulation through the Journal. They are not given in any order of importance.

- (i) Resolution B (i.e. "That this PCC would not accept a woman as the incumbent, priest-in-charge of the benefice or as a team vicar for the benefice") can be considered by a parish in a multi-parish benefice even if one of the team vicars is a women priest. Resolution B is specifically not referred to in section 3(3) of the 1993 Measure and paragraphs 27 to 29 of the House of Bishops' Code of Practice contemplate such a situation and state that even where there are limitations on the exercising of the ministry of a women priest, the appointment "could be appropriate".
- (ii) The words "assistant curate" in section 3(3) of the 1993 Measure are unqualified and therefore they must include any woman priest licensed to the benefice whether stipendiary or non-stipendiary.
- (iii) Under the 1993 Measure a PCC may consider the resolutions as frequently as they like. If a subsequent PCC rescinds the resolutions a later PCC may re-impose them. There is no requirement for review after a stated number of years.
- (iv) The same is also true of the consideration of the resolution concerning the provincial episcopal visitor (PEV) under the Act of Synod (i.e. "This PCC resolves to petition the diocesan bishop requesting that appropriate episcopal duties in the parish should be carried out in accordance with the Episcopal Ministry Act of Synod 1993"). However, unlike the resolutions under the 1993 Measure, this resolution must be reviewed at least once in every period of five years (see Act of Synod, section 9(2). The requirement for review would be satisfied by a further PCC resolution that the arrangement with the PEV be continued for a further period of five years.
- (v) Section 3(4) of the 1993 Measure provides that the resolutions cannot be passed unless the PCC secretary "has given to the members of the council at least four weeks' notice of the time and place of meeting". Each member is entitled to such notice and, if an Annual Parochial Church Meeting has been held during the notice period, all newly elected members would not have had the statutory notice. Thus, fresh notice should be given by the secretary to both the new and existing members.

- (vi) As Resolution A (i.e. "That this PCC would not accept a woman as the minister who presides at or celebrates the Holy Communion or pronounces the Absolution in the parish") and Resolution B (see paragraph (i) above) are statutory, they cannot be amended and must be considered in the terms in which they appear in the 1993 Measure. Resolution B was designed especially for Evangelical parishes which had no difficulty with the ordination of women to the presbyterate but had difficulty with women being in positions of authority. The Steering Committee for the legislation were advised that this included priests in charge and team vicars as well as incumbents, hence the wording found in Schedule 1.
- (vii) Where an incumbent purports to ban from his parish any bishop, priest or other minister who takes part in the ordination of women to the priesthood or who serves with a woman priest, such "ban" cannot include the diocesan bishop. The diocesan has the general cure of souls throughout the diocese and has the right of officiating at any parish church within the diocese (see Halsbury's Laws 4th ed. vol 14 para 690). This is the reason at the institution that the diocesan, when giving the cure, states that it is "both thine and mine". Halsbury goes on to say that the diocesan's right cannot be exercised by deputy and therefore it is doubtful whether an area bishop or suffragan bishop could demand to officiate at a service in the parish against the wishes of the incumbent. However the archdeacon could hold a visitation in the parish and could go to the parish to carry out his duties as required by Canon C 22, as could the rural dean under Canon C 23. But neither of these persons could insist on officiating at services if this was contrary to the incumbent's wishes.
- (viii) Patrons making appointments to benefices may stipulate that candidates should be opposed (or in favour) of the ordination of women to the priesthood but, under section 13 of the Patronage (Benefices) Measure 1986, the parish representatives would not be bound by this and would be able to refuse the making of the offer if they considered the candidate to be unsuitable. The patron has the right to request the Archbishop of the Province to review the matter where there has been a refusal (section 13(5)).
- (ix) A women priest from abroad may now serve in a diocese in the Provinces of Canterbury or York provided she has complied with the requirements of the Overseas and other Clergy (Ministry and Ordination) Measure 1967. It should be noted that, as it is not lawful for a woman to be consecrated to the episcopate in the Provinces of Canterbury and York, the Archbishops' Statement of November 1988 still stands, namely that no woman bishop and no priest or deacon, male or female, ordained by a woman bishop may be given permission to officiate in either of the two Provinces (see (1989) Ecc LJ 9).
- (x) The Marriage Act 1949 defines "clergyman" as meaning "a clerk in Holy Orders of the Church of England". That must be interpreted as being a clergyman who is currently in good standing, being beneficed or licensed by a bishop of the Church of England or the Church in Wales or having the permission to officiate of that bishop or otherwise authorised under the Overseas Clergy Measure 1967 (see (ix) above). The action of being received into the Roman Catholic Church must mean that the clergyman is not in good standing (even if he has not executed a deed of relinquishment of Holy Orders) and he cannot rely on the provisions of the 1949 Act which apply solely to Anglican clergy.

At the February Session of the General Synod Amending Canon No 17 which makes amendments to the liturgical canons [see (1993) 2 Ecc. LJ 115] was promulgated and the Team and Group Ministries Measure and Amending Canon No 16 [see (1992) 2 Ecc. LJ 387] were given final approval.

At the same Session the Incumbents (Vacation of Benefices) Rules 1994 were approved. These were needed following Royal Assent being given to the Incumbents (Vacation of Benefices) (Amendment) Measure 1993. The Rules carry the Measure into effect and, in particular, make rules for regulating the procedure and practice of provincial tribunals and for obtaining medical evidence in connection with enquiries under the Measure.

## WORKING PARTY ON LAY OFFICE-HOLDERS

The Policy Committee of the General Synod has set up a Working Party under the chairmanship of Dr Christine Baxter to review the law relating to the appointment and tenure of office of lay office-holders in the parish and to bring forward any draft regulations thought necessary. Any member wishing to put forward proposals to the Working Party should write to its secretary, Miss Ingrid Slaughter, at Church House, Great Smith Street, London SW1P 3NZ, by the 10th October 1994.