

PARLIAMENTARY REPORT

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INTRODUCTION: A NEW PARLIAMENT

Events during the period under consideration were overshadowed by the result of the General Election in May, in which the Conservatives secured an overall majority and the Scottish National Party won 56 of the 59 seats in Scotland. What this will mean for issues of particular concern to readers of this *Journal* is unclear: but at the very least, there is already pressure for devolution of powers to the Scottish Parliament over and above those in the agreed package put forward by the all-party commission under the chairmanship of Lord Smith of Kelvin. The Scotland Bill¹ was introduced into the Commons on 28 May and is likely to be a matter of some controversy.

The Conservative Party Manifesto included the pledge to 'scrap Labour's Human Rights Act and introduce a British Bill of Rights which will restore common sense to the application of human rights in the UK' and to 'reverse the mission creep that has meant human rights law being used for more and more purposes, and often with little regard for the rights of wider society'. However, the Queen's Speech seemed rather to play that down: 'My Government will bring forward proposals for a British Bill of Rights'. So 'proposals' rather than a firm commitment to legislation in the current session: we shall see what transpires.

ASSISTED DYING

In England, Lord Falconer's Assisted Dying Bill fell at the Dissolution of the last Parliament – since when he has reintroduced it under the new ballot procedure for private Peer's bills. However, he came 21st in the ballot and it is thought that the chances of the reintroduced bill becoming law in the current session are not very great.

In Scotland, the Assisted Suicide (Scotland) Bill that had been introduced by the late Margo MacDonald MSP on 13 November 2013 and taken forward after

1 Available at <<http://www.publications.parliament.uk/pa/bills/cbill/2015-2016/0003/16003.pdf>>, accessed 7 June 2015.

her death by Patrick Harvie MSP was defeated at Stage 1 on 27 May, by 82 votes to 36. The bill therefore fell.

CHARITY LAW

Charities (Protection and Social Investment) Bill

The successor to the draft Protection of Charities Bill noted in the report for October 2014–January 2015 was introduced into the Lords on 28 May. The Charities (Protection and Social Investment) Bill [*Lords*]² has two purposes: to amend the Charities Act 2011 to give greater powers to the Charity Commission for England and Wales to tackle dishonest or abusive behaviour by charity trustees and senior managers, and to put beyond doubt the powers of trustees to make social investments. Clause 13 defines ‘social investment’ as ‘a relevant act of a charity . . . carried out with a view to both directly furthering the charity’s purposes and achieving a financial return for the charity’. The clarification is in response to a recommendation by the Law Commission that the existing uncertainty needed to be resolved.

Law Commission consultation: technical issues in charity law

In March the Law Commission announced a review entitled *Technical Issues in Charity Law*,³ addressing certain issues arising out of the earlier review of the Charities Act 2006 conducted by Lord Hodgson of Astley Abbots. The consultation closed on 3 July.

The following issues under review are likely to engage trustees of religious charities and their advisers:

- i. The procedures by which charities change their purposes and the administrative provisions of their governing documents;
- ii. The application of property *cy-près*, including the application *cy-près* of the proceeds of fundraising appeals;
- iii. The regulation of the acquisition, disposal and mortgage of charity land;
- iv. Remuneration of charity trustees for the supply of goods or services to their charity;
- v. Trustees’ powers to make *ex gratia* payments out of the funds of the charity;
- vi. Transfer of assets and liabilities on incorporation and merger, and gifts made by will to charities that have merged;
- vii. The power of the Charity Commission to require a charity to change its name and to refuse to register a charity unless it changes its name;

2 Available at <<http://www.publications.parliament.uk/pa/bills/lbill/2015-2016/0003/16003.pdf>>, accessed 7 June 2015.

3 Available at <http://lawcommission.justice.gov.uk/docs/cp220_charities_technical.pdf>, accessed 9 June 2015.

- viii. The Charity Commission's power to determine the identity of the trustees of a charity;
- ix. Certain powers of the Charity Tribunal.

The review also examines the law relating to the use of permanent endowment and considers whether there are other approaches that would allow permanent endowment to be used more flexibly.

Charities and third-party campaigning

On 27 April Lord Hodgson of Astley Abbots began the Review of Third Party Campaigning pursuant to section 39 of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014. The Act requires the independent review of the effect of Part 2 to be published by November 2016 but Lord Hodgson intends to complete it by the end of 2015.

The outcome of the Hodgson Review is potentially very important. During the recent General Election campaign two denominations registered under Part 2 of the Act – Quakers in Britain and the Salvation Army – ran local hustings, as did many local churches of all the major denominations. The provisions of Part 2 were widely criticised by commentators in the voluntary sector for being unduly onerous; it will be interesting to see what relaxations – if any – Lord Hodgson recommends.

LOCAL GOVERNMENT (RELIGIOUS ETC. OBSERVANCES) ACT 2015

The Local Government (Religious etc. Observances) Act 2015⁴ received Royal Assent on 26 March and came into force at the end of May. It inserts a new section 138A (Prayers and other observances) into Part 7 of the Local Government Act 1972, which gives local authorities in England a permissive authority to include time in their meetings for 'prayers or other religious observance, or observance connected with a religious or philosophical belief'. It also authorises local authorities to support or facilitate or be represented at religious events or events with a 'belief' element, broadly defined.

CARE OF CHURCHES AND ECCLESIASTICAL JURISDICTION (AMENDMENT) MEASURE 2015

The Measure⁵ makes a series of amendments to the Care of Churches and Ecclesiastical Jurisdiction Measure (EJM) 1991 and the Ecclesiastical

4 The latest version is available at <<http://www.publications.parliament.uk/pa/bills/lbill/2014-2015/0084/15084.pdf>>, accessed 30 January 2015.

5 Available at <<http://www.legislation.gov.uk/ukcm/2015/1/contents>>, accessed 7 June 2015.

Jurisdiction Measure 1963 arising from the work of the Archbishops' Council's Faculty Simplification Group.

It transfers responsibility for giving guidance on trees from diocesan chancellors to the Church Buildings Council and confers jurisdiction in minor matters requiring a faculty directly on archdeacons (including express statutory provision for archdeacons to grant licences for temporary minor re-ordering). Possibly most importantly, section 5 implements the proposal from the Faculty Simplification Group that there should be nationally applicable lists of minor and routine works that can, subject to certain conditions, be undertaken without a faculty.

Section 5 inserts a new section 18B into the EJM 1991, empowering the Rule Committee (which is established under section 25 of the 1991 Measure) to make rules prescribing matters within the jurisdiction of a consistory court that may be undertaken without a faculty.

CHURCH OF ENGLAND (PENSIONS) (AMENDMENT) MEASURE 2015

The Church of England (Pensions) (Amendment) Measure 2015⁶ extends to 2025 the period during which the Church Commissioners may apply capital funds for meeting certain pension costs.

ECCLESIASTICAL PROPERTY MEASURE 2015

The Ecclesiastical Property Measure 2015⁷ introduces a degree of deregulation in relation to property transactions:

- i. The requirement for Parochial Church Councils (PCCs) to obtain diocesan consent before bringing legal proceedings in relation to property matters (such as an action to evict squatters or non-paying tenants from parish property) has been removed;
- ii. The maximum period for which PCCs may now grant a lease without the consent of the diocese has been extended to seven years or less (the previous limit was one year or less);
- iii. The consent of the diocesan authority will no longer be necessary in cases where the value of the transaction falls below a certain threshold (which is yet to be specified by an order of the Archbishops' Council).

The new Measure also makes equivalent provision for ecclesiastical trusts.

6 Available at <<http://www.legislation.gov.uk/ukcm/2015/3/contents>>, accessed 7 June 2015.

7 Available at <<http://www.legislation.gov.uk/ukcm/2015/2/contents>>, accessed 7 June 2015.

THE EQUALITY AND HUMAN RIGHTS COMMISSION ON RELIGION AND BELIEF

In March the Equality and Human Rights Commission published the results of its call for evidence on the laws protecting freedom of religion or belief. Nearly 2,500 people responded to the consultation, published as *Religion or Belief in the Workplace and Service Delivery: findings from a call for evidence*.⁸ Unsurprisingly, the responses revealed a widespread degree of public confusion and misunderstanding about religion, belief and the law.

The Commission will be drawing on the findings of the study to produce guidance on the Equality Act 2010 and the Human Rights Act 1998. Later in the year it intends to publish a report on the adequacy of the laws protecting religion or belief; the results of the call for evidence will inform that exercise.

LORDS SPIRITUAL (WOMEN) ACT 2015

The Lords Spiritual (Women) Act⁹ was given Royal Assent on 26 March and came into force on 18 May, the first day on which the new Parliament met. Its purpose is to enable vacancies among Church of England bishops in the House of Lords to be filled by female bishops instead of male bishops who would otherwise have become members of the House under the law previously in force. The Act has a limited time-span of ten years from the date on which it came into effect.

AND FINALLY ... SHARIA AND THE HOME OFFICE

In a speech delivered on 23 March the Home Secretary, Theresa May, expressed doubts about the nature and informal operation of *sharia* and said that (assuming the Conservatives were returned to power) she would 'commission an independent figure to complete an investigation into the application of Shari'a law in England and Wales'.¹⁰ Now that the Conservatives *have* formed the new Government, watch this space.

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8 Available at <http://www.equalityhumanrights.com/sites/default/files/publication_pdf/Rob%20Call%20for%20Evidence%20Report.pdf>, accessed 8 June 2015.

9 Available at <http://www.legislation.gov.uk/ukpga/2015/18/pdfs/ukpga_20150018_en.pdf>, accessed 7 June 2015.

10 'A stronger Britain, built on our values', available at <<http://press.conservatives.com/post/115395299770/theresa-may-speech-a-stronger-britain-built-on>>, accessed 8 June 2015.