

GOVERNMENT AND PARLIAMENTARY REPORT

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COVID-19 AND RELIGION¹

The COVID-19 pandemic continued to overshadow the period under review. At the beginning of February, weddings might only take place in England in an emergency. It was announced that, from 8 March, the emergency provision would be lifted and six people would be able to attend. Unfortunately, however, that announcement was premature, and the Ministry of Communities, Housing and Local Government sent out an e-mail in which it admitted that

Cabinet Office have now confirmed that there was an error in the publication of the Roadmap and that the 'exceptional circumstances' requirement will not be removed until Step 1b (29 March) and remains in place at Step 1a (from 8 March). They have apologised for the confusion and have amended the guidance on the National Lockdown page.²

The restrictions began to be eased from 12 April, when it became possible for 15 people to attend a wedding and to hold a reception afterwards, but only out of doors in a COVID-secure venue. The limit was raised to 30 from 17 May. At the time of writing, all attendance restrictions were expected to be lifted from 21 June, though doubts were raised by epidemiologists about the advisability of further relaxation in view of the increase in the number of cases of the Delta variant.³ Attendance at funerals continued to be limited to 30 until the end of restrictions.

- 1 I should like to thank my co-blogger David Pocklington, for reading this section and contributing to it.
- 2 For the full text, see David Pocklington, 'COVID-19: MHCLG update on singing and weddings', *Law & Religion UK*, 20 March 2021, <<https://lawandreligionuk.com/2021/03/20/covid-19-mhclg-update-on-singing-and-weddings/>>, accessed 27 May 2021.
- 3 Chris Smyth, 'Delay final lifting of Covid restrictions on June 21, says adviser', *The Times*, 28 May 2021.

Lockdown began to ease in time for Holy Week and Easter, but Easter, Passover and Ramadan were observed while restrictions were still in place: some places of worship resumed in-person services on Palm Sunday—though with very restricted numbers—but others preferred to remain closed. For Christian denominations, particular problems were caused by the tightening of restrictions on singing by non-professional choirs. On Good Friday, the Metropolitan Police interrupted the Liturgy at the Polish Roman Catholic Church in Balham and directed those present to disperse on pain of a £200 fine. On the following day, the police said that they had intervened because there was ‘a large number of people inside the church. Some people were not wearing masks and those present were clearly not socially distanced.’⁴

In Scotland, the First Minister had announced that places of worship would have to close during the period of lockdown for all purposes except for broadcasting a service or conducting a funeral, wedding or civil partnership. Up to 20 people would be able to attend funerals and a maximum of 5 could be present at weddings and civil partnerships. The restrictions were to remain in place until at least the middle of February. The restrictions on worship were brought to a peremptory halt, however, when Lord Braid handed down judgment in *Philip & Ors* on 24 March.⁵ The petitioners, ministers in various protestant denominations, joined by a Roman Catholic priest, Canon Thomas White, as an additional party, had sought judicial review of the lawfulness of the enforced closure. Lord Braid concluded that the Regulations⁶ were a disproportionate interference with the Article 9 right of the petitioners and others, and therefore beyond the legislative competence of the Scottish Parliament and a disproportionate interference with the petitioners’ and the additional party’s constitutional rights.

The Scottish Government decided not to appeal: instead, it laid down new Regulations on 24 March which ended the restrictions, and issued amended guidance on the safe use of places of worship.⁷ On 27 May 2021, it updated *Coronavirus (COVID-19): guidance for the safe use of places of worship*, under which there was a relaxation of the restrictions on a wide range of activities, according to the allocated level of restrictions. At that time, most of mainland Scotland (and islands not at level 1) was at level 2.

On 31 May, congregational singing was allowed to resume for those areas in levels 1 and 0. Though the relaxation initially applied to a few areas, other areas

4 See <<https://twitter.com/MPSWandsworth/status/1378328240599744520>>, accessed 3 April 2021.

5 *Rev'd Dr William J U Philip & Ors for judicial review of the closure of places of worship in Scotland* [2021] CSOH 32.

6 Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 11) Regulations 2021.

7 Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 18) Regulations 2021; Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 18) Amendment Regulations 2021.

were able to prepare for the proposed move to level 1 for the majority of Scotland on 7 June. Towards the end of the period under consideration, the Scottish Government was reviewing physical distancing across all sectors, including places of worship; the outcome of the review was expected ahead of 7 June.

In Wales, the First Minister announced a series of relaxations from 26 April, including an exemption from the limit of 30 on outdoor events in respect of 'a religious service' and permission for wedding receptions of up to 30 people to take place outdoors at regulated premises. Further relaxations would be brought forward from 17 May to 3 May, when Wales moved to Coronavirus alert level 3. Under Schedule 3 of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020, as subsequently amended, the most significant change in relation to places of worship was that community centres were permitted to open for an extended range of activities, which also applied to community activities in places of worship. On 14 May, further amendments were published to the Regulations, which, *inter alia*, made it clear that the maxima of 30 indoors and 50 outdoors did *not* apply to religious services, provided that an indoor service was held in premises ordinarily used for worship.

CATHEDRALS MEASURE 2021

The Cathedrals Measure 2021, which was given Royal Assent on 29 April, establishes new structures for cathedral governance. In brief, the Measure provides for co-regulation of Church of England cathedrals by the Charity Commission of England and Wales and the Church Commissioners and brings them under the aegis of the Charities Act 2011. It also separates governance and management activities and provides greater clarity about the roles and responsibilities of those involved: the cathedral chapter will remain as the governing body but it will in future have a majority of non-executive members. The Measure also addresses financial controls, risk and audit, and clarifies issues of property ownership. The Measure does not apply to Christ Church Cathedral in Oxford except insofar as Schedule 4 amends a provision that applies to it.

DIOCESAN BOARDS OF EDUCATION MEASURE 2021

The Diocesan Boards of Education Measure 2021, which also received Royal Assent on 29 April, provides the framework for dioceses to work with church schools and Government bodies. It creates a new constitutional structure for diocesan boards of education, which are expected to be either incorporated (set up through a charitable company structure) or unincorporated, and which can also be constituted as a statutory committee of the Diocesan Board of Finance.

CLERGY DISCIPLINE (AMENDMENT) RULES 2021

The Clergy Discipline (Amendment) Rules 2021, which were approved by General Synod on 24 April, were laid before Parliament on 13 May and came into force on 13 July. They relate to the procedure and practice once an allegation has been made and referred for preliminary scrutiny by the diocesan registrar.

REVIEW OF WEDDINGS LAW IN ENGLAND AND WALES

The consultation by the Law Commission of England and Wales on weddings law closed on 4 January; at the time of writing the commission was analysing the responses. It aims to publish its final report, with recommendations to Government, at the end of 2021.

REGISTRATION OF MARRIAGES

The Registration of Marriages Regulations 2021 came into force on 4 May. In brief, they amend the Marriage Act 1949 to provide for a new marriage registration system in England and Wales. Under it, marriage registers kept in places of worship have been replaced by the issue of a marriage document or marriage schedule before the marriage is solemnised, which is to be signed and returned to the registrar for the registration district in which the marriage took place.

The Marriage (Keeping of Records in Churches and Chapels) Regulations also came into force on 4 May. They provide for records of marriages to be kept in churches and chapels of the Church of England and the Church in Wales, other than naval, military and air force chapels. Regulation 2 requires parochial church councils (PCCs) to provide ‘registers of marriage services’ to churches and chapels in their parish in which banns may be published, which will belong to the PCC. Regulation 3 requires specified information to be recorded in the register of marriage services when a marriage has been solemnised on or after 4 May 2021 according to the rites of the Church of England or Church in Wales in a church or chapel in which banns may be published. The record must be made and signed by the cleric who solemnised the marriage. Regulation 4 imposes requirements about keeping registers of marriage services provided under Regulation 2.⁸

During the debate in the House of Lords to approve the Registration of Marriages Regulations 2021, Baroness Sherlock (Labour) said clergy had expressed unhappiness to her about the lack of notice. One had said:

8 See also David Pocklington, ‘Marriage in England and Wales from 4 May’, *Law & Religion UK*, 29 April 2021, available at <<https://lawandreligionuk.com/2021/04/29/marriage-in-england-and-wales-from-4-may/>>, accessed 27 May 2021.

We feel a bit stunned about the timing of these changes. We were told some time ago that they were planned and then everything went quiet, and it seems like a strange time to be introducing them now, with a very short lead-in time, with many churches just reopening and the COVID guidance on weddings (and other things) likely to change again soon.

Another wrote that he was ‘trying to tell brides what their ceremonies will look like now as we have a bulge of weddings in the middle of the passage of this legislation. Not enough time for transitional arrangements.’⁹ One suspects that those were not isolated criticisms.

POLICE, CRIME, SENTENCING AND COURTS BILL

Section 17 of the Sexual Offences Act 2003 makes it an offence for a person, A, aged 18 or over to engage sexual activity with a person, B, under the age of 18 where A is in a position of trust in relation to B. Clause 45 (Positions of trust) of the Police, Crime, Sentencing and Courts Bill, which was introduced in the Commons on 9 March and carried over into the current session, would amend the Sexual Offences Act 2003 to include within the definition of ‘a position of trust’ teaching, training, supervising or instructing a person B in a religion on a regular basis. The proposed amendment to the 2003 Act was one of the recommendations from the Independent Inquiry into Child Sexual Abuse in *Anglican Church Case Studies: Chichester/Peter Ball investigation report*.

TECHNICAL ISSUES IN CHARITY LAW IN ENGLAND AND WALES

On 22 March, the Department for Digital, Culture, Media & Sport published its response to the Law Commission’s report on *Technical Issues in Charity Law* (in England and Wales), together with a written ministerial statement. The Government accepted most of the Law Commission’s recommendations, some of which are for the Charity Commission rather than for ministers. The intention of the proposed reforms is to make charity regulation more effective and the legal framework easier to navigate. The Government intends to bring forward the necessary legislation when parliamentary time allows.

Possibly the most important news for places of worship currently excepted from registration with the Charity Commission is that the Government has accepted the Law Commission’s recommendation for periodic reviews of the financial thresholds in the Charities Act 2011, with a view to increasing them in line with inflation: otherwise, more and more small congregations would be required to register with the Charity Commission as inflation eroded the

9 HL Deb 23 March 2021, vol 811, col 768.

value of the concession. The Government has agreed to review the thresholds at least every ten years and aims to undertake the first review in 2022.

‘CHAINED WIVES’ AND THE DOMESTIC ABUSE ACT 2021

During the report stage of the Domestic Abuse Bill, on 8 March, the House of Lords considered amendments moved by Baroness Altmann which, in brief, would have brought within the scope of the Bill the practice of unreasonably preventing the dissolution of a Jewish religious marriage with a *get*, as ‘abusive behaviour’. The Parliamentary Under-Secretary of State at the Ministry of Justice, Lord Wolfson of Tredegar, resisted the amendments but said that the refusal of a *get* would be included in the statutory guidance, which would also include a new section on spiritual abuse: ‘a particular form of abuse where perpetrators use the victim’s faith or other belief system to control them’.¹⁰ The Bill, the majority of which applies to England and Wales or to England only, received Royal Assent on 29 April. At the time of writing, the final version of the statutory guidance had not been published.

RELIGIOUS SLAUGHTER

At the meeting of the House of Commons International Trade Committee on 25 March, the Government confirmed that it intends to launch a consultation later this year into the introduction of labelling for meat products to indicate that the animal was not stunned before slaughter. Victoria Prentis, Parliamentary Under-Secretary of State for Farming, Fisheries and Food, told the committee:

We are concerned about some of the welfare issues that are covered by the terminology ‘religious slaughter’, but we respect people’s rights and the rights of religion to slaughter in the way that they choose. However, I think this is the moment to tackle whether this can be covered by labelling, and I would like to confirm that this will be part of our consultation on labelling shortly to be launched.¹¹

HATE CRIME AND PUBLIC ORDER (SCOTLAND) ACT

The Hate Crime and Public Order (Scotland) Act 2021 was passed by the Scottish Parliament on 11 March and received Royal Assent on 23 April. It abolishes the common-law offence of blasphemy but introduces several offences of ‘stirring up hatred’, including on the grounds of religion. The passage of the Act

¹⁰ HL Deb 8 March 2021, vol 810, col 1331.

¹¹ Q134, International Trade Committee, ‘Oral evidence: UK trade negotiations’, HC 233.

generated considerable controversy, only partly assuaged by amendments to make stirring up hatred an offence only if it is intentional. Opponents of the legislation still had concerns about a possible chilling effect on free speech.

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