

GOVERNMENT AND PARLIAMENTARY REPORT

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COVID-19 AND RELIGION¹

The period under review continued to be dominated by the COVID-19 pandemic. The Westminster Government and the devolved administrations issued a joint statement on 16 December 2020 outlining a series of relaxations on social contacts between 23 and 27 December but even so it seemed that there were mixed feelings about any relaxation. The Scottish First Minister, Nicola Sturgeon, continued to stress that the Scottish Government's recommendation was to celebrate Christmas at home and to keep interactions with other households to a minimum. The Welsh Government decided that social interactions should be limited to two households only, to be followed by a further lockdown from 28 December.

On 18 December, NERVTAG (New and Emerging Respiratory Virus Threats Advisory Group) told the Government that the rate of transmission of the new SARS-CoV-2 variant was 71 per cent higher than for other variants and that it might also have a higher viral load. As a consequence, the Prime Minister announced on 19 December that large parts of south-east England, including London, would go into Tier 4 restrictions and that the relaxation of rules previously announced for Christmas would change: the intended Christmas relaxation in England would be for Christmas Day only and would be scrapped altogether for London and the south-east and east of England, which immediately entered new Tier 4 restrictions broadly equivalent to the national restrictions that had been introduced in England in November—though public worship was allowed to continue. The Tier 4 restrictions were to last for two weeks and be reviewed on 30 December.

Later that day, the First Minister of Wales, Mark Drakeford, announced that his Government had decided to apply similar but not identical restrictions—Alert Level 4—to Wales from 28 December and, as in England, the Christmas

1 I should like to thank my co-blogger David Pocklington for reading this section and contributing to it: he is vastly more expert on the nuts and bolts of the COVID-19 Regulations and guidance than I am.

relaxation would apply only on Christmas Day. Places of worship could remain open, but the relevant guidance reiterated that ‘the safest option is to stay home and not socially mix at all’.²

The Northern Ireland Executive had announced a six-week lockdown starting on Boxing Day which was to be reviewed after four weeks. After an extraordinary meeting of the Executive in the evening of 20 December, however, it was decided to limit the arrangements for people to come together over Christmas to ‘one day only on a date between 23 and 27 December, to ensure flexibility for those working on Christmas Day to choose an alternative day that suits best’.³ The Presbyterian Church, the Roman Catholic Church, the Church of Ireland and the Methodist Church subsequently decided that, with the exception of weddings, funerals, arrangements for recording and/or live-streaming, drive-in services and private prayer (as permitted by the relevant Regulations), public worship and all other in-person church activities should cease until 6 February, subject to a review in late January.⁴

There was yet another change of policy in England when on 4 January the Prime Minister announced that from 6 January there would be a further national lockdown: unlike on the previous occasion, however, places of worship would be permitted to stay open for individual prayer, communal worship following a risk assessment, funerals with not more than 30 mourners, commemorative events to celebrate the life of a person who had died (such as the scattering of ashes) with no more than 6 persons in attendance, significant life-cycle events other than weddings and funerals, weddings and civil partnership ceremonies, broadcasting or filming an act of worship, and social activities such as childcare and food banks.⁵

In Scotland, the First Minister announced, ‘with real regret’, 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 could attend funeral services and a maximum of 5 could be

2 See Welsh Government, 23 December 2020, ‘Guidance on reopening places of worship: coronavirus’, available at <<https://gov.wales/guidance-reopening-places-worship-coronavirus-html>>, accessed 11 January 2021.

3 The Executive Office, 21 December 2020, ‘Executive statement on Christmas arrangements’, available at <<https://www.executiveoffice-ni.gov.uk/news/executive-statement-christmas-arrangements>>, accessed 12 January 2021.

4 See Church of Ireland, 7 January 2021, ‘Statement from the Church of Ireland bishops in Northern Ireland in relation to public worship’, available at <<https://www.ireland.anglican.org/news/10353/statement-from-the-church-of>>, accessed 11 January 2021.

5 See Ministry of Housing, Communities & Local Government, 11 January 2021, ‘COVID-19: guidance for the safe use of places of worship’, available at <<https://www.gov.uk/government/publications/covid-19-guidance-for-the-safe-use-of-places-of-worship-during-the-pandemic-from-4-july/covid-19-guidance-for-the-safe-use-of-places-of-worship-from-2-december>>, accessed 11 January 2021.

present at wedding and civil partnership services.⁶ At the time of writing, the restrictions were to remain in place ‘until at least the middle of February’.⁷

Much of the problem for faith communities has been created by the constant changes in the legislation and guidance: at the time of writing, the Ministry of Housing, Communities & Local Government’s ‘COVID-19: guidance for the safe use of places of worship’ for England,⁸ which was first issued on 4 July 2020, was at its *twentieth* iteration.⁹ Unsurprisingly, the National Secular Society was opposed to any exemption for places of worship, but many from within religious groups themselves were also highly critical and, in practice, an increasing number of churches, synagogues and mosques simply suspended public worship and closed for private prayer.

GENERAL SYNOD (REMOTE MEETINGS) (TEMPORARY STANDING ORDERS) MEASURE 2020

The General Synod (Remote Meetings) (Temporary Standing Orders) Measure 2020, which had been taken through all its Synod legislative stages in one day at a (socially distanced) meeting of Synod in September, was given Royal Assent on 4 November 2020 and came into force immediately thereafter. It provides that the officers of the General Synod, acting jointly, may make standing orders for persons to attend, speak at, vote in or otherwise participate in meetings of Synod without all or any of the persons attending being together in the same place. However, they may exercise the power to make standing orders under the Measure only once, and they may not amend or revoke standing orders made under it (but section 4 confers a power on the General Synod itself to amend or revoke standing orders).

ECCLESIASTICAL OFFICES (TERMS OF SERVICE) (AMENDMENT) REGULATIONS 2020

The Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 2020, SI 2020/1543, came into force on 18 December 2020. They confer on ecclesiastical office-holders the same entitlement to parental bereavement leave that they

6 Scottish Government, 4 January 2021, ‘Coronavirus (COVID-19) update: First Minister’s statement’, available at <<https://www.gov.scot/publications/coronavirus-covid-19-update-first-ministers-statement-monday-4-january-2021/>>, accessed 11 January 2021.

7 Scottish Government, 19 January 2021, ‘Review of restrictions: no change to current measures’, available at <<https://www.gov.scot/news/review-of-restrictions/>>, accessed 26 January 2021.

8 Available at <<https://www.gov.uk/government/publications/covid-19-guidance-for-the-safe-use-of-places-of-worship-during-the-pandemic-from-4-july/covid-19-guidance-for-the-safe-use-of-places-of-worship-from-2-december>>, accessed 12 January 2021.

9 On 11 January 2021, the *Guidance* was updated twice: to reflect the revised national lockdown Regulations which came into force on 6 January and in relation to ‘singing, chanting and the use of musical instruments’.

would have under the Employment Rights Act 1996 if working under a contract of employment.

ECCLESIASTICAL JUDGES, LEGAL OFFICERS AND OTHERS (FEES) ORDER 2020

The Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2020, SI 2020/1539, revokes and replaces the Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2019. Article 2 sets the fee payable for submitting a petition in faculty proceedings under the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.

NATIONAL MINISTRY REGISTER (CLERGY) REGULATIONS 2020

The National Ministry Register (Clergy) Regulations 2020, SI 2020/1538, are made under section 2 of the Church of England (Miscellaneous Provisions) Measure 2020, which requires the Archbishops' Council to compile and maintain a national register of those who exercise ministry. They implement the recommendation of the report of the independent review of the Peter Ball affair, *An Abuse of Faith*, that there should be an up-to-date and publicly accessible record of clergy with permission to officiate.

Regulation 1 provides that the Regulations come into force on 1 May 2021. Regulation 2 sets out the information which is required about a cleric for the purposes of the national register. Regulation 3 determines who, in the case of each cleric, is to provide the Archbishops' Council with the required information about that cleric. Regulation 4 imposes requirements for providing the Council with the required information about clerics already exercising ministry and those subsequently authorised to do so. Regulation 5 imposes requirements for informing the Council where a cleric's exercise of ministry is terminated or suspended. Regulation 6 requires the Council to publish and make available the registration information in relation to each cleric, other than personal contact details.

CHARITIES: EXCEPTION FROM REGISTRATION

Under the terms of the Charities (Exception from Registration) Regulations 1996, as subsequently amended, congregations of certain denominations in England and Wales are not required to register with the Charity Commission if their income is below £100,000. The Regulations were due to lapse on 31 March 2021; however, the Charities (Exception from Registration) (Amendment) Regulations 2021, SI 2021/55, which were laid before Parliament on 19 January and were due to come into force on 31 March unless annulled by a Resolution of either House of Parliament, extend the

exception for a further ten years until 31 March 2031. The expectation is that, at some point, the Charity Commission will introduce phased registration of exempted congregations in income tranches—but that will require further legislation.

INDEPENDENT FAITH ENGAGEMENT REVIEW

Colin Bloom, the Faith Engagement Adviser at the Ministry of Housing, Communities and Local Government (MHCLG) is leading a review of how best the Government should engage with faith groups in England. In support of his review, MHCLG conducted an online call for evidence which posed a series of questions on how those of all faiths, or none, perceived the Government's engagement with faith groups. The call for evidence closed on 11 December 2020.

REVIEW OF THE HUMAN RIGHTS ACT 1998

On 7 December 2020, the Ministry of Justice announced that the Government's review of the Human Rights Act 1998 would be chaired by Sir Peter Gross, a former Lord Justice of Appeal. It would consider: the relationship between the domestic courts and the European Court of Human Rights, including how the duty to 'take into account' Strasbourg case law has been applied in practice; the impact of the Act on the relationship between the judiciary, the executive and Parliament and whether domestic courts are being unduly drawn into areas of policy; and the implications of the way in which the Act applies outside the territory of the UK and whether there is a case for change.

The call for evidence was published on 13 January 2021 and the consultation was due to close on 3 March.¹⁰ In his introduction, Sir Peter made it clear that

The Review's Terms of Reference focus on the operation of the HRA. They are not concerned with either the substantive rights contained within the Convention or with the question whether the UK should remain a signatory to it; the Review proceeds on the basis that the UK will remain a signatory to the Convention.

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 2021, having been extended as a result of the COVID-19 pandemic.

¹⁰ Available at <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/951860/ihrar-call-for-evidence.pdf>, accessed 13 January 2021.

HATE CRIME AND PUBLIC ORDER (SCOTLAND) BILL

As noted in the last report, though the Hate Crime and Public Order (Scotland) Bill will – to general approval – abolish the common law offence of blasphemy, its more general provisions on hate speech have been widely condemned as stifling legitimate expressions of opinion.

In response to those criticisms, the Cabinet Secretary for Justice, Humza Yousaf MSP, wrote to the Convener of the Justice Committee in September with details of the amendments that the Scottish Government proposed to lodge at Stage 2, together with a copy of the Bill as it would look if those amendments were made: the ‘stirring up’ offence in the Bill as drafted would be limited to situations where ‘intent’ was present.¹¹ In his response to the Committee’s Stage 1 Report, Mr Yousaf announced that further amendments would be lodged ‘to clarify that mere expressions of antipathy, dislike, ridicule and insult are not, on their own, criminal behaviour’ and to make it clear that the existing provisions in section 11 would cover the ‘absence of religious belief’.¹²

MARRIAGE AND CIVIL PARTNERSHIP IN NORTHERN IRELAND

The Marriage and Civil Partnership (Northern Ireland) Regulations 2020, SI 2020/742, which came into force on 1 September 2020, put in place an ‘opt-in’ system for same-sex religious marriage. Under the Regulations, individual officiants may be appointed to solemnise same-sex religious marriage where the governing authority of their religious body notifies its written consent to same-sex marriage to the Registrar General. The Regulations also provide exemptions under which it does not amount to unlawful discrimination for a religious body or an officiant to refuse to marry a couple because they are of the same sex.

The Marriage and Civil Partnership (Northern Ireland) (No.2) Regulations 2020, SI 2020/1143, which came into force on 7 December 2020, allow for a three-year period in which same-sex civil partnerships formed in Northern Ireland may be converted into a marriage and opposite-sex marriages formed in Northern Ireland may be converted into a civil partnership. The fee for conversion will be waived for the first year.

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- 11 Available at <https://www.parliament.scot/S5_JusticeCommittee/Inquiries/20201214_Hate_Crime_Bill_SGResponse.pdf>, accessed 13 January 2021.
- 12 Letter from the Cabinet Secretary for Justice to the Convener of the Justice Committee, available at <https://www.parliament.scot/S5_JusticeCommittee/Inquiries/20201020CSJtoAT_HateCrimeAmendments2.pdf>, accessed 13 January 2021.