

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fifth Delegated Legislation Committee

STATUTE LAW (REPEALS) MEASURE  
PENSIONS (PRE-CONSOLIDATION) MEASURE  
ECCLESIASTICAL JURISDICTION AND CARE OF  
CHURCHES MEASURE  
MISSION AND PASTORAL ETC. (AMENDMENT)  
MEASURE  
LEGISLATIVE REFORM MEASURE

*Tuesday 24 April 2018*

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

**not later than**

**Saturday 28 April 2018**

© Parliamentary Copyright House of Commons 2018

*This publication may be reproduced under the terms of the Open Parliament licence, which is published at [www.parliament.uk/site-information/copyright/](http://www.parliament.uk/site-information/copyright/).*

**The Committee consisted of the following Members:**

*Chair:* SIOBHAIN McDONAGH

Bryant, Chris ( <i>Rhondda</i> ) (Lab)	† Smyth, Karin ( <i>Bristol South</i> ) (Lab)
† Clwyd, Ann ( <i>Cynon Valley</i> ) (Lab)	† Spelman, Dame Caroline ( <i>Second Church Estates Commissioner</i> )
† Donelan, Michelle ( <i>Chippenham</i> ) (Con)	† Tami, Mark ( <i>Alyn and Deeside</i> ) (Lab)
† Dunne, Mr Philip ( <i>Ludlow</i> ) (Con)	† Tolhurst, Kelly ( <i>Rochester and Strood</i> ) (Con)
† Evennett, David ( <i>Bexleyheath and Crayford</i> ) (Con)	† Williamson, Chris ( <i>Derby North</i> ) (Lab)
† Graham, Richard ( <i>Gloucester</i> ) (Con)	† Wragg, Mr William ( <i>Hazel Grove</i> ) (Con)
Hoey, Kate ( <i>Vauxhall</i> ) (Lab)	
† Jones, Mr Marcus ( <i>Nuneaton</i> ) (Con)	Jennifer Burch, <i>Committee Clerk</i>
Kendall, Liz ( <i>Leicester West</i> ) (Lab)	
Mann, John ( <i>Bassetlaw</i> ) (Lab)	† <b>attended the Committee</b>
† Selous, Andrew ( <i>South West Bedfordshire</i> ) (Con)	

## Fifth Delegated Legislation Committee

Tuesday 24 April 2018

[SIOBHAN McDONAGH *in the Chair*]

### Statute Law (Repeals) Measure

8.55 am

**The Chair:** It may be helpful if I briefly outline the procedure. In a moment, I will ask whether the Committee is content to debate the five Measures together. If there is no objection, the Committee will have a single debate of no longer than an hour and a half, covering all five Measures. If there is an objection, the Measures will be debated in turn for no longer than an hour and a half each. Is it the wish of the Committee that the instruments be debated together?

**Hon. Members:** Aye.

**The Chair:** I call the Second Church Estates Commissioner to move the first motion and speak to all the instruments. At the end of the debate, I will put the question on the first motion, then ask her to move the remaining motions formally.

**The Second Church Estates Commissioner (Dame Caroline Spelman):** I beg to move,

That the Committee has considered the Statute Law (Repeals) Measure (HC 781).

**The Chair:** With this it will be convenient to consider the Pensions (Pre-Consolidation) Measure (HC 782), the Ecclesiastical Jurisdiction and Care of Churches Measure (HC 783), the Mission and Pastoral etc. (Amendment) Measure (HC 784) and the Legislative Reform Measure (HC 785).

**Dame Caroline Spelman:** Thank you, Ms McDonagh. It is a great pleasure to serve under your chairmanship. I thank all Members for rising early to attend the Committee.

This is the first set of Church Measures to be considered in this Parliament. I will speak to each of the five Measures in turn, but it might be helpful for members of the Committee to understand the journey that the legislation has been on—it is a little different from how the House approaches other types of legislation.

All the Measures were debated at length in the General Synod of the Church of England, which is a bit like the Parliament of the Church of England in that every diocese sends an elected representative. The Measures have been approved to be put before the Ecclesiastical Committee which, in the constitution of our Parliament, is composed of Members of both Houses. The Committee considered the Measures first in the form rather like a draft legislative Committee—informally—and then formally. It made important, small amendments to the Measures that have refined them, and professed itself content with them, which is why they are before us this morning. I hope that that background might be helpful.

The procedure for Church Measures is set out in the Church of England Assembly (Powers Act) 1919, which became part of general law. In effect, it devolves lawmaking for the Church of England to the General Synod, subject to parliamentary scrutiny. As I have said, the Ecclesiastical Committee has reported its view that each of the five Measures is deemed expedient, which is the term used—Measures are either expedient or non-expedient as far as the Ecclesiastical Committee is concerned.

The Legislative Reform Measure will make it possible to remove or reduce burdens resulting in ecclesiastical legislation without going through the legislative process that applies to Measures under the 1919 Act. The Church of England needs that facility to address significant practical difficulties in a timely fashion. Until very recently, far more detail was included on the face of primary legislation than would be the case today. As primary legislation, whether in the form of an Act or Measure, can generally be amended only by further primary legislation, changes to Church legislation have proved time-consuming, costly and onerous. It generally takes between two and three years for a Measure to complete all stages in the General Synod and Parliament. It can take up to a year longer if, for example, Parliament is dissolved, as happened in very recent history.

For some legislation—for example, legislation that has constitutional implications or implications for the rights of individuals—the full legislative process in the Synod in Parliament provides the opportunity stage by stage for careful consideration, but for legislation to remove or reduce burdens of a financial and administrative nature, a legislative process taking two or three years is far too slow. The Measure therefore confers a power on the Archbishops' Council to make orders to remove or reduce burdens. The Archbishops' Council comprises senior members of the General Synod.

Before making an order, the Archbishops' Council must carry out full statutory consultation. The draft order must then be laid before the General Synod. If the Synod approves the draft order, the Archbishops' Council may proceed to make it. It must then lay the order before both Houses of Parliament, subject to the negative procedure for statutory instruments. An order will therefore not take effect if it is annulled by either House of Parliament, and further provisions to safeguard the role of Parliament and the constitutional position of the Church of England have been built into the Measure.

This is not a general power to legislate by order. It has been modelled to a large degree on the power that Parliament conferred on itself under the Legislative and Regulatory Reform Act 2006. The order-making power can be used only to amend or repeal “ecclesiastical legislation”, as defined in the Measure, and a number of ecclesiastical statutes have been expressly excluded, such as those relating to the appointment of bishops, key Measures that make provision for the worship and doctrine of the Church of England, and provisions relating to the application of the Church Commissioners' general fund and for provision of constitutional significance.

Members of the Ecclesiastical Committee were given the opportunity to comment informally on the draft Measure at an early stage, and they provided three further safeguards. First, the Archbishops' Council will be required to lay the consultation documents before

both Houses of Parliament. Secondly, the Committee further restricted the scope of the order-making power by adjusting the definition of ecclesiastical legislation in the Measure so that it clearly excludes provisions contained in Acts of Parliament that do not form part of the ecclesiastical law of the Church of England.

Thirdly, a sunset provision was inserted into the Measure so that the order-making power expires five years after the first draft order is laid before the General Synod and can continue in force after that period only under a special procedure that involves an affirmative resolution in both Houses of Parliament. The sunset provision will in due course provide Parliament with an opportunity to see how the new order-making power is working. The power will provide the Church with a procedure for making uncontroversial legislative changes within what should be a maximum 12-month period—a significant improvement over the average two to three years it currently takes.

The second Measure concerns mission and pastoral amendments, and implements proposals that were initially formulated by a simplification taskforce established by the Archbishops' Council. Pastoral reorganisation is one of the things included, because such things as the creation of new benefices and parishes and the closure and opening of new churches are an active part of what the Church has to do. The amendments will streamline those procedures and remove duplication, making the consultation process more effective. For example, if a deanery synod has a plan for parish reorganisation, the Measure removes the duplication of a separate consultation on such a reorganisation—consultation should need to be done only once. The provisions therefore contain the presumption that the formulated deanery plan for pastoral reorganisation will give effect to the proposals. Also, a new type of instrument called a Bishop's pastoral order will be available to provide for a limited range of administrative matters, such as changing the name of a parish, after consultation with the parishioners, or the creation of a deanery.

Provisions are contained within the Measure for compensating clergy who lose office as a result of pastoral reorganisation. The existing provisions provide in effect for a member of clergy who is displaced and does not find another post to receive compensation for loss of stipend and housing until they reach pensionable age. The new provisions are more workable, replacing the existing arrangements with compensation based on 12-months' stipend and pension contributions, which is still significantly more generous than statutory compensation for people in other professions. On top of that, the bishop will have a discretionary power to authorise additional payments. Should the priest be shortly before retirement, it would be possible to extend the compensation beyond the 12 months, running up to the statutory retirement provisions. Additionally, the Measure strips away a number of over-prescriptive provisions, and various other provisions have been tidied up.

The third Measure is the Pensions (Pre-Consolidation) Measure. At its forthcoming meeting in July, the General Synod will look more widely at the pension provision within the Church as part of the work of trying to bring pensions together in a more practical way and ensuring that people are properly provided for. It amends various

Measures and regulations and consolidates a large number of Measures and regulations that deal with Church of England pensions.

One Measure is worth citing because it was examined in detail at the Ecclesiastical Committee. It makes provision to permit the Church of England pensions board to transfer the clergy widows and dependants pensions fund into the Church of England funded pensions scheme, which is the main scheme that covers current service by clergy. That will mean that any excess sums in the widows and dependants fund can be applied for by clergy and their dependants under the funded scheme. At the same time, it will provide increased security to the beneficiaries of the much smaller widows and dependants fund. I stress that it provides better protection for the widows and dependents of clergy.

The Statute Law (Repeals) Measure repeals a number of ecclesiastical enactments that are spent, obsolete, unnecessary or otherwise not of any practical utility. It consolidates some of the 36 enactments relating to ecclesiastical jurisdiction and the care of churches and other places of worship. The oldest enactment that is consolidated in the Measure goes back to 1708, so it is high time we did a little tidying up.

The result is that all statute law relating to ecclesiastical jurisdiction other than the disciplinary jurisdiction over the clergy, and all statute law relating to the faculty jurisdiction and associated matters, are contained in a single Measure. That will make it much easier for anyone who needs to use the legislation to find out what the law is and to apply it.

In summary, those are the five Measures we are considering. I would be grateful for the support of Committee in approving that the Measures be sent for Royal Assent, which is essentially what we are doing. I remain at the disposal of the Committee for any questions that may pertain.

9.7 am

**Karin Smyth** (Bristol South) (Lab): It is a pleasure to serve under your chairship, Ms McDonagh. The Opposition welcome the Measures, but I will touch on a couple of points about them.

On the Legislative Reform Measure, anything that seeks to reduce the burdens as defined and bring things up to date is to be welcomed, particularly in terms of more transparency for those working in that area. We agree on the Mission and Pastoral etc. (Amendment) Measure and welcome it in the interest of transparency. The Pensions (Pre-Consolidation) Measure is important in terms of return for years of service by the clergy and their widows and dependents. It will provide assurance and transparency for members of the scheme. The Ecclesiastical Jurisdiction and Care of Churches Measure is also to be welcomed.

We have a few concerns, which I will highlight. With regard to the tenure and compensation in the Mission and Pastoral etc. (Amendment) Measure, there is a period of one year in which people can find a new home, as the right hon. Lady identified. I recognise that the bishop has discretion, but I remind her that when people reach a key time in their lives or family circumstances—for example, it could be children's schooling—the cost and availability of housing in many areas can be problematic. We hope that, in the use of

[Karin Smyth]

those powers, the bishop will be cognisant of the security that is needed when moving, particularly for families and children at an important time in their education. A year has been identified as a longer period of time than other public servants might have, but it is still a short time in the life of a family.

With regard to the Ecclesiastical Jurisdiction and Care of Churches Measure, the Commissioners need to be mindful of the special place that churches have in our communities for those of us of no faith as well as those in the Church of England and other faiths. They are an important part of our history and community landscape and therefore belong to all of us. We welcome the clarity on the list. Access is important for that reason.

This has been a period of continued change for those involved—many years and many committee meetings have got us to this point. We thank them for their work, which is to be welcomed. For those working for, volunteering at or worshipping in the Church, it is important that the Commissioners continue to make its operation more accountable, accessible and transparent through such Measures.

9.9 am

**Dame Caroline Spelman:** I am grateful to the hon. Lady for raising those points. She might be reassured by the bit of extra research that I did on the statutory redundancy provisions in wider society, and the provisions under this Measure and that exist for clergy should they be displaced from their roles. Statutory redundancy pay, which applies to those who have worked for an employer for at least two years, is based on one week's pay for each full year worked between the ages of 22 and 41, and one and a half week's pay for each full year worked over the age of 41. The length of service is capped at 20 years, and the maximum amount payable is £15,240.

The compensation package for clergy is significantly more attractive, because clergy will get a 12-month stipend of about £25,000 irrespective of their length of

service. They will also receive the equivalent of 12 months' pension contributions. There is no provision for compensation in lieu of pension contributions under statutory redundancy pay. Under the new scheme, clergy who lose office are also entitled to housing for 12 months if they were previously living in a vicarage or other official residence. Again, there is no equivalent in the secular sphere.

The clergy package is therefore worth about £45,000. In addition, I reassure the Committee that the bishop will still have a discretionary power to extend that in such circumstances as those to which the hon. Lady referred. Hopefully that reassures the Committee that those who have served the Church so well are well cared for in such an event.

*Question put and agreed to.*

#### **PENSIONS (PRE-CONSOLIDATION) MEASURE**

*Resolved,*

That the Committee has considered the Pensions (Pre-Consolidation) Measure (HC 782).—(*Dame Caroline Spelman.*)

#### **ECCLESIASTICAL JURISDICTION AND CARE OF CHURCHES MEASURE**

*Resolved,*

That the Committee has considered the Ecclesiastical Jurisdiction and Care of Churches Measure (HC 783).—(*Dame Caroline Spelman.*)

#### **MISSION AND PASTORAL ETC. (AMENDMENT) MEASURE**

*Resolved,*

That the Committee has considered the Mission and Pastoral Etc. (Amendment) Measure (HC 784).—(*Dame Caroline Spelman.*)

#### **LEGISLATIVE REFORM MEASURE**

*Resolved,*

That the Committee has considered the Legislative Reform Measure (HC 785).—(*Dame Caroline Spelman.*)

9.13 am

*Committee rose.*