

ORDINATION OF WOMEN TO THE EPISCOPATE: LEGAL CONSIDERATIONS

1 *The Present Position*

- 1.1 Until 1987, it was not lawful to ordain women as deacons, priests or bishops. These absolute prohibitions were changed by:
- Deacons (Ordination of Women) Measure 1986.
 - Priests (Ordination of Women) Measure 1993¹ – it also provided for PCCs to refuse to have a woman priest, by passing Resolutions A or B, for sacramental or “headship” reasons.
 - Act of Synod 1993: this provision (which does not have the force of law, but is a solemn resolution of the General Synod) provides for parishes to petition the diocesan bishop (by “Resolution C”), for pastoral and sacramental oversight by one of the Provincial Episcopal Visitors (“flying bishops”).
- 1.2 It remains the case that “nothing in [the Canons of the Church of England] shall make it lawful for a woman to be consecrated to the office of bishop” (Canon C2.5).

2 *The Present Proposal*

- 2.1 In February 2009, the draft Bishops and Priests (Consecration and Ordination of Women) Measure was committed by General Synod for further consideration by a Revision Committee.²
- 2.2 The draft Measure would:
- Repeal existing arrangements (but they may continue for up to five years)³.
 - Provide for bishops to make formal declarations of non-participation⁴.
 - Enable archbishops to nominate suffragan bishops to provide extended episcopal oversight as “complementary bishops”⁵.
 - Enable parishes to petition “on grounds of theological conviction”; bishops then choose a non-participating suffragan bishop to provide oversight⁶.
 - Requires the House of Bishops to establish a Code of Practice⁷.

¹ The legality of this Measure was challenged by the Church Society in 1993, and the Court of Appeal determined that the Church of England may change its doctrine of ministry, if it follows the procedure in the GS constitution.

² The vote received a 71% majority overall.

³ See Schedule I.

⁴ Clause 2(1). The declarations would be that they would not participate in the consecration of women, or that they would neither participate in the consecration of women nor ordain women to the priesthood.

⁵ Clause 3(1) and 4 (8) – presumably, the suffragan bishops concerned will be the present “flying bishops”, who are suffragan bishops of Canterbury (the Bishops of Ebbsfleet and Richborough) and York (Bishop of Beverley).

⁶ Clause 3(2)

⁷ This will include provision for deaconesses, readers and lay workers (“whether or not in participating parishes”), and for support of women in ministry in those dioceses where the bishop has made a formal declaration of non-participation

3 *Other Possibilities*

3.1 In July 2008, the General Synod had put forward three options, one of which was broadly the proposal that then came back to the Synod in February 2009.

3.2 They may be briefly summarized in this way:

<i>Proposal</i>	<i>Arrangements</i>	<i>Conscience Provisions</i>	<i>Enforcement</i>
1	Repeal of Canon 2.5	As at present (i.e. no special provision re. bishops)	As at present
2	Repeal of Canon 2.5 – and provisions briefly set out under 2 <i>The Present Proposal</i> above	Code of Practice	Judicial Review in (secular) Courts
3	Repeal of Canon 2.5 – with provisions broadly as 2 above, but backed by Measure (law), not Code of Practice	Transfer of episcopal functions as specified in Regulations	Failure to comply to be disciplinary offence, under the Clergy Discipline Measure 2003

4 *The Way Ahead?*

4.1 Unusually, the chairman, (the Bishop of Manchester) emphasised the openness of the revision process, and that earlier approaches canvassed in July 2008 (and others again) might yet be revisited⁸.

4.2 The Revision Committee is likely to meet monthly, with its revised draft coming back to the General Synod in February 2010 and July 2010⁹.

4.3 If the Measure receives approval in 2010, then it will be referred to the dioceses for consideration.

4.4 If supported by a majority of the dioceses, it will return to the General Synod for Final Approval, which requires a two-thirds majority in each of the Houses.

4.5 Further legislative work would then be needed, both to repeal the Act of Synod and to establish the Code of Practice¹⁰.

Canon John Rees
Diocesan Registrar

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⁸ The report itself had emphasised the possibility of "further process of discernment and discussion during the passage of the draft legislation". *Women in the episcopate* (GS 1707) para. 30.

⁹ Fresh elections will be taking place in summer 2010, for General Synod membership 2010 to 2015.

¹⁰ The legislation would not come into effect until those steps had been taken.