

STATES OF JERSEY



ORDER IN COUNCIL: ADOPTION OF NEW CANONS

Lodged au Greffe on 18th January 2022
by the Chief Minister
Earliest date for debate: 1st March 2022

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

To:

- (a) endorse the attachment of Jersey to the Church of England Diocese of Salisbury instead of the Diocese of Winchester and to agree, including for the purposes of Article 31 of the States of Jersey Law 2005, that a request be made to Her Majesty in Council for the making of an Order in Council providing for the attachment of Jersey to the Diocese of Salisbury, for the transfer to the Bishop of Salisbury of all such jurisdiction as the Bishop of Winchester has in relation to Jersey, and making certain consequential amendments to legislation affecting the Church of England in Jersey to reflect such transfer including revoking the Order in Council of Elizabeth I of 11 March 1569 whereby Jersey had been attached to the Church of England Diocese of Winchester; and

- (b) endorse the amended Canons of the Church of England in Jersey as set out in R.8/2022 and as approved by the Right Reverend the Bishop of Salisbury, the Dean of Jersey, the Ecclesiastical Court, and the Deanery Synod of the Island so that the draft Canons may be submitted to Her Majesty with a request that an Order in Council be issued bringing them into force in Jersey.

CHIEF MINISTER

REPORT

1. I am pleased to present this Proposition to the States concerning matters of significance for the Church of England in Jersey as the Church established in law in Jersey under the Crown.
2. The Proposition is two-fold: Members are asked to endorse the proposal to attach the Island to the Diocese of Salisbury instead of the Diocese of Winchester. Members are then also asked to endorse the making of an Order by the Queen in Council to bring into force the Canons of the Church of England in Jersey in the form in which they have been revised and approved by the institutions of the Church of England in Jersey and by the Bishop of Salisbury in England (as the prospective Diocesan Bishop for Jersey).

Attachment to Salisbury

3. The proposal to attach Jersey and Guernsey to Salisbury has been approved unanimously by the members of the Deanery Synods in both Jersey and Guernsey and by the members of the Diocesan Synod in Salisbury. A Measure under English law to provide the legal basis for the transfer was approved by the General Synod of the Church of England in February 2020. That Measure has now obtained approval in the United Kingdom Parliament and received Royal Assent.
4. A Commission established by the Archbishop of Canterbury in 2018 to report upon the relationship of the Channel Islands to the wider Church of England visited Jersey and Guernsey in spring 2019 before reporting in the autumn of that year. The central recommendation of the Commission's Report was that the Diocesan Bishop to which the Islands should relate should be the Bishop of Salisbury rather than the Bishop of Winchester. The Report is available on the Church of England website at:
<https://www.churchofengland.org/sites/default/files/2019-10/Report%20-%20FINAL%20-%20208-10-19.pdf>.
5. In the years since 2014 Bishop Trevor Willmott has, by agreement, been providing care and oversight as Bishop for the Church in Jersey in place of the Bishop of Winchester following the breakdown in relations between the Channel Islands and Winchester in 2013 following the current Bishop of Winchester's actions in purporting to "effectively suspend" the then Dean of Jersey, the Very Reverend Bob Key.
6. Bishop Trevor Willmott was the Bishop of Dover and is now retired but will continue as an Assistant Bishop in the Diocese of Winchester to ensure continuity until the transfer to the Bishop and Diocese of Salisbury can be effected. It is hoped that, if this Proposition is approved, that the attachment of the Channel Islands to the Diocese of Salisbury would be effected as a matter of English law and Jersey law on the same day which would be the day on which the Order in Council is registered by the Royal Court.
7. Members may be aware that the attachment of the Island to Winchester has been for a considerable period. An Order in Council was made by Queen Elizabeth I in 1569 to annex Jersey and Guernsey to the episcopal See of Winchester in place of the episcopal See of Coutances. Pope Alexander VI had previously

sought to transfer the Islands to Salisbury (in 1497) and then Winchester (in 1499) but it required an Order by the Sovereign with the advice of Her Privy Council for this to be observed in the Islands. The Islands' relationship with the Bishop of Coutances had begun in the 10th century when Normandy was yielded to Rollo and the Normans. The Normans placed their territory under a Bishop of their own, rather than the Bishops of Dol in Brittany under whose care the Islands had been since the 6th century when St Sampson (the patron saint of Guernsey) was raised to be Archbishop of Dol.

8. The Archbishop's Commission was clear in recommending the attachment to Salisbury that the Church of England in Jersey wished to be part of the wider Church of England and relate to a Bishop and Diocese in England, but that a rapprochement with Winchester was regrettably not considered possible for the foreseeable future and that notwithstanding the appreciation of Bishop Trevor Willmott's ministry and the welcoming approach shown by the Canterbury diocese, Canterbury was not viewed as a viable option for the longer term.
9. Since the Deanery Synods in each Bailiwick endorsed the Archbishop's Commission's recommendation, progress has been ongoing to ensure the integration of Jersey and Guernsey with Salisbury. Relationships are being developed and in a number of ways, the Islands are already unofficially functioning as though attached to Salisbury. The Deans in each Bailiwick are part of the Bishop's Senior Staff of the Diocese of the Salisbury attending regularly for meetings with the assistant bishops, archdeacons and deans in Salisbury and in matters of Safeguarding the Church in Jersey now looks for advice, guidance and training from the Diocesan Safeguarding Officers for Salisbury.
10. Members are asked to endorse the making of an Order in Council which will provide for the attachment to Salisbury, revoking the Order in Council of 1569 that provided for the attachment to Winchester and amending other Orders in Council where references to Winchester should be changed to refer to the Bishop or Diocese of Salisbury.
11. A draft form of Order in Council is set out in the Appendix to this Report.

Canons of the Church of England in Jersey

12. On 18th January 2011 the States adopted Proposition P.179/2010 brought by the then Chief Minister Senator T.A. Le Sueur endorsing the making of new Canons for the Church of England in Jersey by Order of Her Majesty in Council which came into force when it was registered by the Royal Court on 23rd March 2012.
13. These Canons followed the three guiding principles involved when King James I approved the "Canons for the Isle of Jersey" in 1623:
 - (i) The direct relationship of the Island to the Crown.
 - (ii) The Canons should follow the English pattern wherever possible.
 - (iii) Jersey custom and tradition should not only be respected but take precedence.
14. In the proposed new Canons now before the Assembly, those same 3 principles remain.

15. The proposed new Canons provide for the Bishop of Salisbury to be the Bishop in Jersey.
16. The Archbishop's Commission has recommended that a memorandum of understanding be drawn up to reflect the areas of responsibility which will fall to the Bishop and to the Dean respectively and considerable work has been undertaken in this regard and agreement reached on such a memorandum with the Bishop of Salisbury who has now retired from office.
17. One of the areas where there is a change is in relation to clergy discipline where in the initial stages of a complaint of misconduct (where one might seek conciliation or where a person might admit misconduct and accept a penalty by consent) will be dealt with by the Bishop alone, though nothing in the Canons would prevent the Bishop, where appropriate, from consulting the Dean and seeking his advice in relation to a particular matter of discipline.
18. There are other changes made in relation to the composition of the Disciplinary Division of the Ecclesiastical Court of Jersey to increase the compliance of the disciplinary provisions of the Canons with rights afforded under the European Convention and given effect in Jersey under the Human Rights (Jersey) Law 2000.
19. The previous "Clergy Disciplinary Division" has been widened in scope to be a "Disciplinary Division" that will also encompass reviewing matters where lay church leaders or ministers may be suspended and not only matters of clergy misconduct.
20. Other changes to the Canons reflect the emphasis that the Church places on safeguarding all people, and in particular children and vulnerable adults. The new Canons engage with the work to promote a safer culture and reflect the policy of the Church that all those involved in leading the church's ministry (whether they are ordained or lay people) must have "due regard" to safeguarding guidance issued by the House of Bishops (which includes both policy and practice guidance). A duty to have "due regard" to guidance means that the person under the duty is not free to disregard it but is required to follow it unless there are cogent reasons (clear, logical, and convincing) for not doing so. Failure to comply with this duty is expressly made misconduct under the Canons. The proposed new Canons have, therefore, followed the principles in the amendments made to English ecclesiastical law through the Safeguarding and Clergy Discipline Measure 2016.
21. When the current Jersey Canons were approved in 2012, the Church of England ordained women as priests and as deacons but had not yet decided to enable women to be consecrated as bishops. In July 2014 legislation was passed in England to enable women to be consecrated as bishops. The proposed amended Jersey Canons reflect the Church of England's commitment to all its orders of ministry being open equally to all, without reference to gender; that pastoral and sacramental provision be made for those of all theological convictions on this issue to ensure that there is "mutual flourishing"; and that the five guiding principles agreed by the House of Bishops in 2015 are upheld.

22. A further change in these revised Canons has been intended to address the way in which ecclesiastical law in Jersey has not necessarily kept pace with changes that have been made in England in areas where the adoption of change would have been considered by the church locally to be desirable and in the interests of the Island. Under legislation made in 1931 (and last amended in 1957) the Deanery Synod is consulted upon any scheme drawn up on behalf of the diocesan bishop to introduce into Jersey (and, more often than not, also into Guernsey) Measures of the Church of England that have been adopted by the General Synod and given Royal Assent in England. The Deanery Synod is composed of priests and lay people representing the various Anglican churches of the Island. It is constituted into two Houses and functions in many ways as the legislature for the church in Jersey. The process under the 1931 legislation involves the drawing up and approval of a scheme and then the seeking of an Order of Her Majesty which, to be registered by the Royal Court requires the States Assembly to have considered and approved a Proposition under Article 31 of the States of Jersey Law 2005. The 1931 legislation has been used on very few occasions to introduce Church of England Measures to Jersey which is indicative of process being considered perhaps to be longwinded. The revised Canons would allow for a simplification for the Church in Jersey to adopt through the Deanery Synod regulations where those are approved by the Bishop. This simplified process of regulations is intended to address day-to-day processes and procedures and the ordinary and more mundane aspects of the church's life where it is nonetheless necessary to have an instrument having legal effect to be followed by the Anglican churches across the Island with the approval of their Bishop and which will underpin their ministry, mission and pastoral care to Islanders. There is a limit to the use of the simplified process and so in matters touching upon the Church's doctrine or where there would be a wider impact upon the law of Jersey, it would still be necessary for any new Measure to be referred to the States Assembly before being given force of law in the Island by Order of the Sovereign in Council. The proposed revised form of the Canons of the Church of England in Jersey has been presented to the States and accessed in [R.8/2022](#).

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from this proposition.

Appendix

ATTACHMENT OF JERSEY TO THE DIOCESE OF SALISBURY ORDER 202-

At the Court at [Windsor Castle], the *** day of ***

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty in the exercise of her prerogatives as Sovereign in right of the Bailiwick of Jersey as humbly requested to be exercised on behalf of the Bailiwick by Act of the States Assembly of [day] day of [month] 202-, and also in the exercise of the powers conferred by the Channel Islands Measure 2020 and the Channel Islands (Church Legislation) Measure 1931, is pleased by and with the advice of Her Privy Council to order as follows:

Short title and commencement

1.—(1) This Order may be cited as the Attachment of Jersey to the Diocese of Salisbury Order 202-

(2) This Order comes into force on the day on which it is registered by the Royal Court of Jersey.

Attachment of Jersey to Diocese of Salisbury

2.—(1) The Bailiwick of Jersey is, by virtue of this Order, as a matter of and for the purposes of the law of Jersey attached to the diocese of Salisbury instead of to the diocese of Winchester.

(2) Such jurisdiction as the Bishop of Winchester had in relation to the Bailiwick of Jersey immediately before the commencement of this Order is transferred to the Bishop of Salisbury.

Supplementary provision

3.—(1) Anything (including legal proceedings) which, immediately before commencement of this Order, was in the process of being done by or in relation to the Bishop of Winchester may, so far as it relates to the jurisdiction as Bishop in respect of Jersey (in pursuance of the Order of 1569 or customary or statutory law since the Order of 1569) be continued by or in relation to the Bishop of Salisbury.

(2) Anything done (or having effect as if done) by or in relation to the Bishop of Winchester in connection with the jurisdiction as Bishop in respect of Jersey (in pursuance of the Order of 1569 or customary or statutory law since the Order of 1569) has effect, so far as necessary for its continuing effect after commencement of this Order, as if done by or in relation to the Bishop of Salisbury.

(3) This Article does not affect the validity of anything done (or having effect as if done) by or in relation to the Bishop of Winchester in connection with jurisdiction as Bishop in respect of Jersey from the Order of 1569 until commencement of this Order.

(4) In this Article— "Order of 1569" means the Order of Her late Majesty Queen Elizabeth I made on the eleventh day of March 1569 with the advice of Her Privy Council and in the exercise of Her prerogatives as Sovereign in right of the Bailiwick of Jersey pursuant to which Jersey was attached to the episcopal See of Winchester.

Consequential amendments to legislation

4.—(1) In Section 1 of the Channel Islands (Church Legislation) Measure 1931 as it has effect in Jersey the definition of “the Bishop” is amended such that for “Winchester” there is substituted “Salisbury”.

(2) In Section 1 of the Channel Islands (Representation) Measure 1931 as it has effect in Jersey the definition of “the Bishop” is amended such that for “Winchester” there is substituted “Salisbury”.

(3) The Synodical Government Channel Islands Order 1970 is to be construed such that the functions of the Salisbury diocesan synod shall be exercisable in respect of Jersey instead of the functions of the Winchester diocesan synod.

(4) The references in each of the Channel Islands (Church Legislation) Measure 1931 and the Channel Islands (Representation) Measure 1931 to the Islands, or to either or each of them, are to be read as references to the Bailiwicks or to either or each of them. In this Article “the Bailiwicks” means both— (a) the Bailiwick of Jersey, and (b) the Bailiwick of Guernsey.

(5) In section 4 of the Channel Islands (Representation) Measure 1931 (qualification of electors) as it has effect in Jersey, for paragraph (b) there is substituted —

“(b) is either—

- (i) a member of the Church of England or of a Church in communion with it, or
- (ii) a member of the Church of England and a member in good standing of a Church which is not in communion with it but subscribes to the doctrine of the Holy Trinity;”.

(6) In section 4 of the Channel Islands (Representation) Measure 1931 (qualification of electors) as it has effect in Jersey, in paragraph (c) in place of “of seventeen years or upwards” there is substituted “aged 16 or over”.

(7) In section 5 of the Channel Islands (Representation) Measure 1931 (election of lay representatives) as it has effect in Jersey, in place of “annually” there is substituted “triennially”.

(8) In the Schedule to the Channel Islands (Representation) Measure 1931 (application for enrolment on church electoral roll) as it has effect in Jersey, for paragraphs (i) to (vi) of the declaration there is substituted—

- (i) I am baptised.
- (ii) I am a member of the Church of England
or
I am a member of _____, being a Church in Communion with the Church of England
or
I am a member in good standing of _____, being a Church which is not in communion with the Church of England but subscribes to the doctrine of the Holy Trinity and I am also a member of the Church of England.*
- (iii) I am aged 16 or over.
- (iv) I am a resident in the Island of _____