

Provincial Synod  
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**AMENDMENT TO CANON XXI  
(THE MARRIAGE CANON)**

Presentation by David Jones, Q.C  
Chancellor of General Synod

## HOW DID WE GET HERE?

### ***Direction from GS 2013 to prepare an amendment to Canon XXI (The Marriage Canon)***

General Synod **2013** directed Council of General Synod to prepare a motion for General Synod 2016 to make two specific types of amendments to the Marriage Canon:

- [1] to allow the marriage of same sex couples in the same way as opposite sex couples, and
- [2] to include a conscience clause so that no member of the clergy, bishop, congregation or diocese should be constrained to participate in *or authorize* such marriages against the dictates of their conscience.

### ***The Marriage Canon Commission***

Council of General Synod established the Marriage Canon Commission to consider how to proceed with the direction from GS 2013. The Commission received submissions from many persons and also commissioned some reports to it on particular topics. In due course it presented its report ("This Holy Estate") to Council of General Synod, which can be found at <https://www.anglican.ca/about/ccc/cogs/cmc/> .

## THE STRUCTURE OF CANON XXI

General Synod enacted Canon XXI in its current form in 1967 after a lengthy consideration of permitting divorced persons to be married by the Church.

It has a somewhat unusual structure:

- The Preface—which describes the evolution and complexity of Christian understanding(s) of Marriage
- The Regulations—which contain the following Parts
  - Part I Prerequisites for Marriage
  - Part II The Solemnization of Matrimony
  - Part III Determination of Marital Status under this Canon
  - Part IV The Remarriage of a Divorced Person Whose Former Partner is Still Living
  - Part V Admission to Holy Communion in Special Cases (Deleted in 2004)
  - Part VI Ecclesiastical Matrimonial Commission
  - Part VII Forms

Can be found at [https://www.anglican.ca/wp-content/uploads/221\\_canon\\_XXI.pdf](https://www.anglican.ca/wp-content/uploads/221_canon_XXI.pdf)

*So, what is required to amend the Marriage Canon?*

# PROCEDURE FOR CHANGING A CANON DEALING WITH DOCTRINE

## DECLARATION OF PRINCIPLES

### 11. Amendments

...

#### c) *Canons*

- i) All Canons dealing with doctrine, worship, or discipline, and all alterations to such Canons, shall require to be passed by a two-thirds majority in each Order voting at two successive sessions of the General Synod, the Canons and alterations proposed having been referred for consideration to diocesan and provincial synods, following the first approval of the General Synod.
- ii) All other Canons may be approved or amended by a two-thirds majority of the Order of Bishops, and of the Orders of Clergy and Laity voting together.

...

#### e) *Amendments on Second Reading at Synod*

- i) Where a proposed change ... to a Canon dealing with doctrine, worship, or discipline has been:
  - a) passed at one session of the General Synod,
  - b) referred for consideration to all diocesan and provincial synods, and
  - c) brought before a second session of the General Synod for consideration,

it shall be in order for the General Synod to adopt any amendment to the proposed change which would have been in order when the proposed change was considered at the first session of the General Synod and the proposed change shall take effect if passed by the required majority at the second session with or without such amendment.

## MAKING THE WORDING GENDER-NEUTRAL

Only four changes are required to make the wording of Canon XXI gender-neutral:

- (a) in paragraph 2 of the Preface, delete the words “of the union of man and woman in”
- (b) in paragraph 4 of the Preface, substitute the words “the parties to the marriage” for the “husband and wife”;
- (c) in section 16 a) of the Regulations, substitute “the parties to the marriage” for “a man and a woman”;
- (d) in section 17 b) of the Regulations, substitute “the parties to the marriage” for “husband and wife”.

## THE EXISTING CONSCIENCE CLAUSE

### ***No minister is required to solemnize any marriage***

Section 11 d) of the Regulations in the existing Canon preserves a minister's discretion to decline to solemnize any particular marriage. No additional language is required in the resolution to put in place a conscience clause for individual ministers to refuse to solemnize a same-sex marriage.

#### *Regulations—Part I*

##### *11. License and Permission of Minister to Solemnize Marriage*

...

- d) The discretion of a minister to decline to solemnize any particular marriage shall not be abrogated by this Canon.

## ORIGINAL VERSION OF RESOLUTION A051

### *Opt out*

The original wording of A051 contained an *opt-out* mechanism for bishops, diocesan synods, and congregations (none was required for individual ministers because of the existing conscience clause in s. 11 d) of the Regulations):

3. The following be added to section 11 of the Regulations

- e) A minister shall not solemnize a marriage between persons of the same sex if:
  - (i) the diocesan synod has enacted a Canon to prohibit the solemnization of marriages between persons of the same sex in the churches and other places of worship in the diocese by any bishop or member of the clergy licensed in the diocese;
  - (ii) the diocesan bishop has issued a written and public direction prohibiting the solemnization of marriages between persons of the same sex in the churches or other places of worship in the diocese by any bishop or member of the clergy licensed in the diocese;

or

  - (iii) the congregation has passed a resolution at a duly constituted meeting of the members of the congregation prohibiting the solemnization of marriages between persons of the same sex in the congregation's church or other place of worship.
- f) Provided that none of the provisions of paragraph 11 e) applies, where a minister under paragraph 11 d) [of the existing Canon] declines for reasons of conscience to solemnize a marriage between two persons of the same sex, the minister shall refer the persons to another priest and permit that priest or another priest to solemnize the marriage in the minister's church or other place of worship.

## AMENDED VERSION OF A051

### ***Opt-in***

General Synod 2016 amended section 3 of the resolution to provide that ministers could only solemnize same sex marriages *if authorized by the diocesan bishop*.

3. Add the following to section 11 of the Regulations
  - e) A minister may only solemnize a marriage between persons of the same sex if authorized by the diocesan bishop.

### ***No limitation on a bishop's discretion***

This wording does not contain any limitation of how a diocesan bishop might exercise his or her discretion to authorize (or not authorize) a minister to solemnize a same sex marriage. Could be all ministers, a particular minister, a particular minister in a particular congregation, for a particular couple, or none.

### ***No minister required to solemnize any marriage***

The amendment from opt-out to opt-in did not change the existing provision that no minister is required to solemnize any marriage: s. 11 d) of the Regulations:

#### *Regulations—Part I*

#### *11. License and Permission of Minister to Solemnize Marriage*

...

- d) The discretion of a minister to decline to solemnize any particular marriage shall not be abrogated by this Canon.



## WORDING OF A051R2 AS PASSED AT FIRST READING BY GS 2016

So this is the wording which will go to GS 2019 for Second Reading:

Be it resolved that this General Synod:

1. Declare that Canon XXI (On Marriage in the Church) applies to all persons who are duly qualified by civil law to enter into marriage.
2. Make the following consequential amendments to Canon XXI:
  - (a) in paragraph 2 of the Preface, delete the words “of the union of man and woman in”;
  - (b) in paragraph 4 of the Preface, substitute the words “the parties to the marriage” for the “husband and wife”;
  - (c) in section 16 a) of the Regulations, substitute “the parties to the marriage” for “a man and a woman”;
  - (d) in section 17 b) of the Regulations, substitute “the parties to the marriage” for “husband and wife”.
3. Add the following to section 11 of the Regulations
  - e) A minister may only solemnize a marriage between persons of the same sex if authorized by the diocesan bishop.
4. Declare that this resolution shall come into effect on the first day of January after being passed by General Synod at Second Reading.