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PARLIAMENTARY REPORT

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ANTI-SOCIAL BEHAVIOUR

The Anti-social Behaviour, Crime and Policing Bill completed its third reading in the Lords on 27 January and, at the time of writing, was awaiting the resolution of differences between the two Houses by the process commonly known as 'ping-pong'. Concerns had been expressed by certain religious organisations that activities such as street preaching could be banned if there were complaints from residents; and the Salvation Army, in particular, with its tradition of open-air singing and brass bands, was worried that its activities might be curtailed.

BLOGGING AND THE DEFAMATION AND CRIME AND COURTS ACTS 2013

The majority of the Defamation Act 2013 relating to England and Wales and some of its provisions relating to Scotland came into force on 1 January 2014.

Section 1 provides that a statement is not defamatory unless its publication has caused or is likely to cause 'serious harm' to the reputation of the claimant – the latter in order to cover situations where the harm has not yet occurred at the time when the action for defamation is commenced. Harm to the reputation of a body which trades for profit is not regarded as 'serious harm' unless it has caused or is likely to cause the body serious financial loss. Readers will no doubt be delighted to learn that section 6 creates a new defence of qualified privilege relating to peer-reviewed material in a scientific or academic journal. However, much the most important change for Churches is the provision relating to websites.

Section 5, which works in conjunction with the Defamation (Operators of Websites) Regulations 2013[1] and which applies only in England and Wales, addresses the situation in which an action for defamation is brought against the operator of a website in respect of a statement posted on the site by a

1 SI 3028.

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third party. Section 5 and the associated Regulations provide an optional defence for operators of websites hosting user-generated content, always provided that the operator can show that he or she has not posted the defamatory statement on the website in person, has followed the procedure detailed in the Regulations and has met the tight time-limits under the Regulations. Crucially, according to the accompanying guidance from the Ministry of Justice, the defence is not defeated 'just because the operator moderates statements posted on the website'.

It should also be remembered that schedule 15 6(1) to the Crime and Courts Act 2013 (Exclusions from definition of 'relevant publisher') provides a simple exemption from that Act's provisions on exemplary damages for 'a ... charity that publishes news-related material in connection with the carrying out of its functions'. Blogs run by church congregations should be exempt from the exemplary damages provisions of the Crime and Courts Act 2013 on that ground alone; however, there is also a very much more complicated exemption for small-scale blogs based on the size of the business concerned.

CHANCEL REPAIR LIABILITY

Midnight on 12 October 2013 marked an important milestone in the law relating to chancel repair liability. Amendments to the Land Registration Act 2002 and the Land Registration Rules 2003 provided that after that point, unless a parochial church council has lodged a notice at the Land Registry protecting its right to claim for chancel repairs, the liability's status as an overriding interest ceased.

The amendments do not, however, abolish chancel repair liability in its entirety. If there has been no change of ownership since 12 October a parochial church council can still register a notice; it is only a successor in title who is freed from the unregistered liability. Moreover, it remains possible that where a property changes hands 'without valuable consideration' (for example, under the terms of a will) the liability may persist after the October cut-off date.

CHARITIES AND CHARITY LAW

England and Wales

The Charity Commission decided to implement its proposals for additional information in annual returns, as follows: whether a charity raises funds from the public, whether it pays its trustees, whether it works with a commercial partner, whether it has a trading subsidiary, whether it carries out its purposes mainly through grant-making and whether it has a written policies for risk management, conflicts of interest, investment, managing vulnerable beneficiaries

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and volunteers, and handling complaints. In addition, the Commission decided to publish additional information on whether or not the charity's accounts had been qualified, whether the charity had become insolvent or whether it was subject to enforcement action by the Commission for non-submission of accounts. The Commission is developing accompanying guidance and definition to help charities completing their annual return in 2014.

Northern Ireland

The Charities Act (Northern Ireland) 2008, as amended, continues to be brought gradually into force. The Charities (2008 Act) (Commencement No 5) Order (Northern Ireland) 2014[2] brings into operation a further tranche of provisions, the most important of which are section 68(3) and section 70(2), relating to annual returns by charities.

SAME-SEX MARRIAGE AND CIVIL PARTNERSHIP

England and Wales

On 3 October the Ministry of Justice published a consultation on a draft of the Shared Buildings Regulations to be made under the Marriage (Same Sex Couples) Act 2013; the consultation closed on 1 November 2013. The draft Regulations deal both with formal sharing agreements under the Sharing of Church Buildings Act 1969 and with situations in which buildings are shared informally. The main thrust of the draft is to make sure that shared buildings may be registered for same-sex marriages only with the agreement of all sharing groups.

In December, the Women and Equalities Minister, Maria Miller, announced that, subject to Parliamentary approval, the commencement date for same-sex weddings in England and Wales would be Saturday 29 March 2014. Her announcement also included the news that, from the same date, same-sex couples married abroad under foreign law would be recognised as being married in England and Wales. It was hoped that couples wishing to convert their civil partnerships into marriages and married couples wanting to change their legal gender while remaining married would be able to do so 'before the end of 2014'.

Scotland

At the time of writing, the Marriage and Civil Partnership (Scotland) Bill introduced into the Scottish Parliament on 27 June 2013 had passed Stage 2 and was awaiting Stage 3 consideration.

2 SR 2014/018.

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POLITICAL ACTIVITY BY CHARITIES

The Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 received Royal Assent on 30 January 2014. During the passage of the legislation considerable concern was expressed by and on behalf of the Churches that some of its provisions would have a significantly chilling effect on their activities. Churches, as charities, are not affected by Part 1 of the Act (which applies solely to commercial lobbyists); however, it is argued that the compliance aspects of some of the provisions of Part 2 of the Act relating to third-party campaigning during election periods will make it more difficult for local congregations to hold hustings on their premises and for the Churches to campaign more generally on issues such as poverty and asylum.

The Act is to be brought into force after the European Parliament elections in May 2014 so its likely impact remains to be seen. However, the Charity Commission has already announced that it will update its guidance on charities, elections and referendums (which supplements its guidance on campaigning and political activity) in the light of the changes introduced by the legislation.

SCRAP METAL DEALERS ACT 2013

The Scrap Metal Dealers Act 2013, which received Royal Assent on 28 February 2013 and which applies only to England and Wales, came into force on 1 October 2013. One of the principal drivers behind the legislation was the need to stem the dramatic rise in thefts of metal, especially lead, from church roofs; broadly speaking, the Act aims to tackle the problem by raising trading standards across the scrap metal industry. Under its provisions, dealers may no longer buy scrap metal for cash and are required to keep more detailed and accurate records of transactions than before and to verify the identity of those selling metal to them.

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