

Written evidence submitted by Churches' Legislation Advisory Service

The Psychoactive Substances Bill: a response by the Churches' Legislation Advisory Service

Who we are

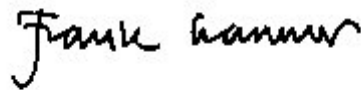
1. The Churches' Legislation Advisory Service is an ecumenical charity that brings together all the major Churches in the United Kingdom (and, because the umbrella ecumenical bodies are members, many of the smaller Churches as well), together with the United Synagogue. Though we are a body composed of religious organisations our focus is not "religious" as such; rather, our primary purpose is to represent our member-Churches' views on issues of secular law as they affect their interests.

The problem

2. Among our members are the Church of England, the Church in Wales, the Scottish Episcopal Church, the Roman Catholic Church in England & Wales and in Scotland and the Greek Orthodox Church in Great Britain – and because Churches Together in Britain and Ireland is also a member, we also have links with the wider circle of Orthodox and Oriental Churches that have a presence in the UK.
3. All the above Churches (though by no means all congregations within them) use incense in their services.
4. During proceedings on consideration in the Lords, in relation to a series of amendments to limit the scope of the proposed blanket ban to synthetic psychoactive substances, Lord Howarth of Newport argued that the Bill as drafted risked criminalising the use of innocuous psychoactive botanicals such as perfumes, incense and herbal remedies. He was concerned about the possible unintended consequences of the generalised term "psychoactive substances" used in the Bill: "We do not want to criminalise priests. The more vigorously the priest swings the censer, the more incense is let loose into the body of the church" [HL Deb (2015-16) 14 July 2015 c 469].
5. In response, Lord Bates said on behalf of the Government that "It is not accidental that we have drawn this widely; it was deliberately done to recognise that there is a particular problem here" [HL Deb (2015-16) 14 July 2015 c 481]. But he did not appear to respond to the specific point about the liturgical use of incense.
6. We entirely understand why that should be so: that a detailed description of each banned substance would mean that they could be reformulated with a slightly changed molecular structure in order to get around the legislation. Nevertheless, a problem remains for the Churches that use incense in their worship (and, for that matter, for other religious communities such as Hindus and Buddhists): that under the Bill as currently drafted it would be of doubtful legality.

7. *We cannot for one moment believe that is the intention of the Government to make the use of incense in religious worship illegal. We would urge that, for the avoidance of doubt, a specific exemption for the use of incense in places of worship be inserted into Schedule 1 to the Bill.*

8. An exemption on the face of the Bill would be our preferred solution. However, should it prove impossible to draft an exemption that would exclude the legitimate religious use of incense without widening the scope of the general prohibition to an unacceptable degree, then an acceptable alternative might be a firm ministerial assurance – *on the record* – that the legislation is not intended to extend to the liturgical use of incense.



Frank Cranmer
Secretary of CLAS

19 August 2015