

2020 No. 406

ECCLESIASTICAL LAW, ENGLAND

**The Church Representation Rules (Amendment) Resolution
2020**

Made - - - - - *11th February 2020*

Laid before Parliament *8th April 2020*

Coming into force in accordance with paragraph 1

The General Synod, in exercise of the powers conferred by section 7 of the Synodical Government Measure 1969^(a), resolves to amend the Church Representation Rules^(b) as follows.

In accordance with that section, the General Synod has passed this Resolution with a majority in each House of not less than two-thirds of those present and voting.

PART 1

INTRODUCTION

Citation, commencement and interpretation

1.—(1) This Resolution may be cited as the Church Representation Rules (Amendment) Resolution 2020.

(2) This Part and Part 3 (other than paragraph 14) come into force on the day after the day on which this Resolution is laid before Parliament.

(3) Part 2 and paragraph 14 into force on 15th July 2020.

(4) A reference in this Resolution to a numbered Rule is to the Rule numbered as such in the Church Representation Rules.

PART 2

APPEALS

Enrolment appeals

2.—(1) In Rule 57 (enrolment appeals), in paragraph (4)—

(a) omit the “and” after sub-paragraph (a), and

^(a) 1969 No.2. Section 7 has been amended by section 1(2) of the Church Representation and Ministers Measure 2019 (No. 1).
^(b) The Church Representation Rules are contained in Schedule 3 to the Synodical Government Measure 1969.

(b) after sub-paragraph (b) insert—

“, and

(c) may be accompanied by written submissions”.

(2) After Rule 57 insert—

“Enrolment appeals: referral and representations etc.

57A.—(1) Where notice of an appeal under Rule 57 is given, the person to whom it is given must without delay (and in any event within 48 hours of receiving it unless the appellant has in the meantime given written notice to withdraw the appeal)—

- (a) refer the notice to the bishop’s council and standing committee,
- (b) in the case of an appeal under Rule 57(3), give a written notification to the person to whose enrolment or removal from the roll or register the objection is made, and
- (c) give a written notification to each person who made a decision to which the appeal relates.

(2) Where a purported notice of an appeal under Rule 57 is given out of time, the person to whom it is given must without delay (and in any event within 48 hours of receiving it unless the appellant has in the meantime given written notice to withdraw the appeal)—

- (a) refer the purported notice of appeal to the bishop’s council and standing committee, and
- (b) give a written notification to each person referred to in paragraph (1)(b) and (c).

(3) An appeal under Rule 57 is to be dealt with in accordance with Rules 61B to 61G and 61I.

(4) A person to whom a notification is given under paragraph (1)(b) is entitled to make written representations to the panel appointed under Rule 61C(1) on a decision to which the appeal relates.

(5) A person to whom a notification is given under paragraph (1)(c) is entitled to provide that panel with a written explanation of the reasons for the decision which that person made.

(6) Representations under paragraph (4) or an explanation under paragraph (5) must be made within 28 days of referral of the notice of appeal.

(7) A person to whom a notification is given under paragraph (2)(b) is entitled to make written representations to the panel appointed under Rule 61C(2) on the question of whether the panel should consider the appeal.

(8) Representations under paragraph (7) must be made within seven days of the notification under paragraph (2)(b) being given.

(9) A notification under paragraph (1)(b) or (c) or (2)(b) must include an explanation of the entitlement to make representations or an explanation (as the case may be).

(10) A reference in this Part to an “enrolment appeal” is a reference to an appeal under Rule 57.”

Election appeals: right of appeal and grounds of appeal

3.—(1) For Rule 58 substitute—

“Nomination appeals

58.—(1) An appeal may be made against a determination that a nomination of a candidate for a relevant election is not valid on the grounds that the nomination is valid and that the person should, accordingly, be included as a candidate for the election.

(2) Notice of a summary election appeal must be given to the presiding officer for the election.

(3) Notice of an appeal under Rule 58(1) (appeal against ruling that nomination not valid) must be given no later than two days after the day on which the person to whom the nomination relates is notified of the ruling that the nomination is not valid.

(4) Notice of an appeal under Rule 58(2) (appeal against ruling that nomination valid) brought by a person entitled to vote in the election (including one who is a candidate) must be given no later than two days after the day on which the person receives a voting paper for the election.

(5) Notice of an appeal under Rule 58A(1)(a) or (b) (appeal relating to whether person duly elected or qualified to be candidate) must be given no later than two days after the day on which the result of the election is declared.

(6) Notice of an appeal under Rule 58A(4) (appeal against allowance or disallowance of vote) must be given no later than two days after—

- (a) the day on which the vote in question is allowed or disallowed, or
- (b) if the appeal is being brought on grounds that there is an error in the roll of a parish or the register of clerical or lay electors but an enrolment appeal has yet to be determined, the day on which that appeal is determined.

Summary election appeal: referral to relevant judge, etc.

60A.—(1) The presiding officer for an election, having received notice of a summary election appeal, must without delay (and in any event within 48 hours of receiving the notice of appeal unless in the meantime written notice is given to withdraw the appeal)—

- (a) refer the notice of appeal to the relevant judge,
- (b) give a written notification to each candidate in the election,
- (c) if any decision to which the appeal relates was made by a person other than the presiding officer, give a written notification to that person, and
- (d) in the case of an appeal under Rule 58(1) or (2), give a written notification to the person whose nomination is the subject of the appeal.

(2) A person to whom a notification is given under paragraph (1)(b) or (d) is entitled to make written representations to the relevant judge on a decision to which the appeal relates.

(3) The presiding officer is entitled to provide the relevant judge with a written explanation of the reasons for any decision made by the officer to which the appeal relates.

(4) A person to whom a notification is given under paragraph (1)(c) is entitled to provide the relevant judge with a written explanation of the reasons for the decision which that person made.

(5) Representations under paragraph (2) or an explanation under paragraph (3) or (4) must be made within seven days of the referral of the notice of appeal.

(6) A notification under paragraph (1)(b), (c) or (d) must include an explanation of the entitlement to make representations or an explanation (as the case may be).

(7) The “relevant judge” is—

- (a) the Dean of the Arches and Auditor, or
- (b) if the Dean of the Arches and Auditor declines or is unable to act as such, the Vicar-General of the Province of Canterbury or the Vicar-General of the Province of York, or
- (c) if each of them declines or is unable to act as such, the chancellor of the diocese concerned.

Summary election appeal: parties

60B.—(1) On a summary election appeal, each of the following is a party to the appeal (in addition to the appellant)—

- (a) the presiding officer;
- (b) any person to whom a notification is given under Rule 60A(1)(c);
- (c) each relevant person.

(2) Each of the following is a relevant person—

- (a) on an appeal under Rule 58(1) or (2), the person whose nomination is the subject of the appeal;
- (b) on an appeal under Rule 58A(1)(a) or (b), the person whose election is the subject of the appeal;
- (c) on an appeal under Rule 58A(4), any person to whom a notification is given under Rule 60A(1)(b).

Summary election appeal: determination

60C.—(1) The relevant judge (referred to in this Rule as “the judge”), having had a notice of appeal referred under Rule 60A(1), must decide whether the grounds of the appeal are established to the judge’s satisfaction.

(2) The judge, in deciding the matter at issue, may consider only—

- (a) the notice of appeal and any accompanying written submissions, and
- (b) any representations or explanation made in accordance with Rule 60A(5).

(3) A decision under this Rule must be made within seven days of the referral of the notice of appeal.

(4) Where the judge decides on an appeal under Rule 58(1) that a nomination is valid, or decides on an appeal under Rule 58(2) that a nomination is not valid, the judge must—

- (a) give directions for the appointment of a new period for voting in the election, and
- (b) give whatever further directions the judge thinks necessary.

(5) Where, on an appeal under Rule 58A(1)(a) or (b) or (4), the judge decides that the election as a whole is void, the judge must—

- (a) direct that a fresh election is to be held, and
- (b) give whatever further directions the judge thinks necessary.

(6) Where, on an appeal under Rule 58A(1)(a) or (b) or (4), the judge allows the appeal but does not decide that the election as a whole is void, the judge must give whatever directions the judge thinks necessary.

(7) The judge on a summary appeal must otherwise decide one of the following—

- (a) that the matter at issue amounts to a minor infringement which did not affect the outcome of the election and the appeal should accordingly be dismissed;
- (b) that the matter at issue amounts to a procedural irregularity in the conduct of the election but the appeal should nonetheless in all the circumstances be dismissed;
- (c) that the appeal is wholly without merit and should accordingly be dismissed.”

Full appeals

7. For Rule 61 substitute—

“Full election appeal: notice of appeal

61.—(1) Notice of a full election appeal—

- (a) must be in writing,
 - (b) must give brief particulars of the grounds of appeal, and
 - (c) may be accompanied by written submissions.
- (2) Notice of a full election appeal must be given to the presiding officer for the election.
- (3) Notice of an appeal under Rule 58A(1)(c) or (2) must be given no later than 14 days after the day on which the result of the election is declared.
- (4) Notice of an appeal under Rule 58A(3) must be given no later than 14 days after—
- (a) the day on which the result of the election is declared, or
 - (b) if an enrolment appeal has yet to be determined, the day on which that appeal is determined.

Full election appeal: referral to bishop's council and standing committee

61A.—(1) Where notice of a full election appeal is given, the person to whom it is given must without delay (and in any event within 48 hours of receiving it unless in the meantime written notice is given to withdraw the appeal)—

- (a) give a written notification to each candidate in the election,
- (b) if any decision to which the appeal relates was made by a person other than the presiding officer, give a written notification to that person, and
- (c) refer the notice to the bishop's council and standing committee.

(2) Where a purported notice of a full election appeal is given out of time, the person to whom it is given must without delay (and in any event within 48 hours of receiving it unless in the meantime written notice is given to withdraw the appeal)—

- (a) give a written notification to each person referred to in paragraph (1)(a) and (b), and
- (b) refer the purported notice to the bishop's council and standing committee.

(3) A person to whom a notification is given under paragraph (1)(a) is entitled to make written representations to the panel appointed under Rule 61C(1) on a decision to which the appeal relates.

(4) The presiding officer is entitled to provide that panel with a written explanation of the reasons for any decision made by the officer to which the appeal relates.

(5) A person to whom a notification is given under paragraph (1)(b) is entitled to provide that panel with a written explanation of the reasons for the decision which that person made.

(6) Representations under paragraph (3) or an explanation under paragraph (4) or (5) must be made within 28 days of referral of the notice of appeal.

(7) The presiding officer and any person to whom a notification is given under paragraph (2)(a) are each entitled to make written representations to the panel appointed under Rule 61C(2) on the question of whether the panel should consider the appeal.

(8) Representations under paragraph (7) must be made within seven days of the notification under paragraph (2)(a) being given.

(9) A notification under paragraph (1)(a) or (b) or (2)(a) must include an explanation of the entitlement to make representations or an explanation (as the case may be).

(10) Once a notice is referred under this Rule, the appellant may withdraw it only with the consent of the panel appointed under Rule 61C to decide the matter.

Enrolment appeal or full election appeal: parties

61B.—(1) On an enrolment appeal, each of the following is a party to the appeal (in addition to the appellant)—

(2) In Part 11 of the Church Representation Rules (index), at the appropriate place insert each of the following—

“enrolment appeal (in Part 6) Rule 57A(10)”;

“full election appeal (in Part 6) Rule 59A(2)”;

“summary election appeal (in Part 6) Rule 59A(1)”.

(3) For section 5A of the Churchwardens Measure 2001 (election appeals) substitute—

“Election appeal

5A.—(1) An appeal may be made against the result of an election under section 4 on the grounds that a person whose election is the subject of the appeal—

- (a) was not duly elected,
- (b) was not qualified to be a candidate at the time of the election, or
- (c) before the election is held, misrepresented a material fact in connection with the election.

(2) An appeal may be made against the result of an election under section 4 on the grounds that the conduct of the election was such as to affect the outcome of the election.

(3) An appeal may be made against the result of an election under section 4 on the grounds that—

- (a) it has been determined on an appeal under Rule 57 of the Church Representation Rules that an error was made in the roll or the question is awaiting determination on an appeal under that Rule, and
- (b) the error would or might be material to the result of the election.

(4) An appeal may be made against the result of an election under section 4 on the grounds that a vote which was allowed should have been disallowed, or that a vote which was disallowed should have been allowed, but only if the allowance or disallowance of the vote would or might be material to the result of the election.

(5) An appeal under this section may be made by—

- (a) a person entitled to take part in the meeting of the parishioners for making the election, or
- (b) a candidate in the election.

(6) Notice of an appeal under this section—

- (a) must be in writing,
- (b) must give brief particulars of the grounds of the appeal, and
- (c) may be accompanied by written submissions.

(7) Notice of an appeal under this section must be given to the lay chair of the deanery synod (as defined by Rule 26(7) of the Church Representation Rules).

(8) On an appeal under this section, a person who was declared elected but whose election is or may be affected by the appeal is to be regarded for all purposes as elected pending the determination of the appeal.

(9) Rules 60 to 60C and 61I of the Church Representation Rules apply to an appeal under subsection (1)(a) or (b) or (4) of this section as they apply respectively to an appeal under Rule 58A(1)(a) or (b) or (4) of those Rules (summary election appeal).

(10) Rules 61 to 61I of the Church Representation Rules apply to an appeal under subsection (1)(c), (2) or (3) of this section as they apply respectively to an appeal under Rule 58A(1)(c), (2) or (3) of those Rules (full election appeal).”

(4) In section 5 of that Measure (meeting of parishioners), in subsection (3), after “is to be held” insert “; and the notice must also include an explanation of the right of appeal under section 5A against the result of the election”.

PART 3

MISCELLANEOUS

Registers of clerical and lay electors

11.—(1) In Rule 27 (diocesan electoral registration officer), in each of paragraphs (2) and (3), after “must” insert “, subject to paragraph (4),”.

(2) For paragraph (4) substitute—

“(4) Persons co-opted as members of the house of clergy or the house of laity of a deanery synod are not to be recorded in the register concerned.”

House of Laity of General Synod: composition

12.—(1) Rule 46 (membership of the House of Laity) is amended as follows.

(2) In paragraph (1)(c)—

- (a) before “chosen” insert “elected or”, and
- (b) before “choice” insert “election or”.

(3) In paragraph (1)(f), after “may decide” insert “or, in so far as provision is not made in that manner, in such manner as the rules under Rule 56 provide”.

(4) In paragraph (4)(a)—

- (a) for “(1)(e)” substitute “(1)(f)”, and
- (b) omit the words from “(under” to the end.

Electoral areas

13. In Rule 51 (electoral areas), at the end insert—

“(6) Where a diocese is divided under this Rule—

- (a) a diocesan elector who is a representative of the laity is entitled to vote in the area to which the body by which the elector was elected belongs;
- (b) a diocesan elector who is not a representative of the laity is entitled to vote in whichever area the diocesan synod decides.”

Cathedral community roll: representation for habitual worshippers only

14. In Rule 83(6) (meaning of “community roll”), after “Cathedrals Measure 1999” insert “; but for the purposes of these Rules, a person’s name is to be treated as being on the community roll of a cathedral church only if the dean has declared the person to be a habitual worshipper”.

Parochial church council: term of office of co-opted member

15. In Rule M17 (PCC members: term of office), after paragraph (3) insert—

“(4) A person who is a member of the PCC under Rule M15(1)(k) (co-opted members) holds office as such for the period which—

- (a) begins when the decision to co-opt the person as a member takes effect, and
- (b) ends with the conclusion of the next annual meeting.

