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S T A T U T O R Y I N S T R U M E N T S

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**2021 No. 557**

**ECCLESIASTICAL LAW, ENGLAND**

**The Clergy Discipline (Amendment) Rules 2021**

*Made (approved by General Synod)*                           *24th April 2021*

*Laid before Parliament*                                   *13th May 2021*

*Coming into force - - -*                                   *13th July 2021*

The Rule Committee makes the following Rules in exercise of the powers conferred by sections 83 and 94 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018(a):

**Citation, commencement and interpretation**

**1.**—(1) These Rules may be cited as the Clergy Discipline (Amendment) Rules 2021.

(2) These Rules come into force two months after the day on which they are laid before Parliament.

(3) In these Rules, “the 2005 Rules” means the Clergy Discipline Rules 2005(b); and a reference to a numbered Rule is to the Rule numbered as such in the 2005 Rules.

**Provision of email address**

**2.**—(1) In Rule 4 (institution of proceedings), in paragraph (2)(a)(ii), after “the complainant” insert “and, if the complainant has one, an email address”.

(2) In Rule 17(c) (respondent’s answer), in paragraph (2)(a), after “the respondent” insert “and, if the respondent has one, an email address”.

**Timeline**

**3.** In Rule 4 (institution of proceedings), in paragraph (2), after sub-paragraph (a), insert—  
“(aa) be accompanied by a statement of the relevant events in chronological sequence”.

**Limitation period**

**4.** In Rule 8(d) (allegation made out of time), for paragraphs (2) to (4) substitute—  
“(2) The President shall start consultation by giving the respondent a copy of the complainant’s application and written directions for the management of the application, and shall invite the respondent to make written comments to the President in response to the

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(a) 2018 No. 3.

(b) S.I. 2005/2022, as amended by S.I. 2013/1917 and S.I. 2016/848.

(c) Relevant amendments have been made by rule 5 of S.I. 2016/848.

(d) Relevant amendments have been made by rule 4 of S.I. 2013/1917.

application within 21 days of receiving the copy of the application and the directions; and any such comments must be made in accordance with those directions.

(3) The President shall, within 7 days of receiving comments from the respondent under paragraph (2), give the complainant a copy of the comments and written directions for the management of the application.

(4) When acting under paragraph (3), the President shall inform the complainant that, within 21 days of receiving the copy of the comments and the directions, the complainant may send the President written comments in reply; and any such comments must be made in accordance with those directions.”

### **Production of documents by person not party to proceedings**

5.—(1) After Rule 28 insert—

#### **“Application for production of documents by person not party to proceedings**

**28A.**—(1) The Designated Officer or the respondent may apply to the President for an order for production of documents by a person who is not a party to the allegation of misconduct.

(2) But the respondent may not apply for production of documents by the Designated Officer.

(3) The application must be made in writing using form 10a in the Schedule.

(4) The application must be made—

(a) after the allegation of misconduct is referred to the Designated Officer under rule 28, but

(b) before the President decides under rule 29 whether there is a case for the respondent to answer.

(5) The application may be made without notice being given to any person but the President may direct under rule 102A that written notice of the application be given to one or more specified persons.

(6) The President may make an order under this rule only where it appears to the President that the production of documents specified or described in the application is relevant and necessary for dealing fairly with the allegation.

(7) An order under this rule must specify or describe the documents or the classes of documents which the person to whom the order is directed must produce.

(8) An order under this rule must state—

(a) that the person to whom the order is directed must obey the order, and

(b) failure to do so may be a contempt, and

(c) that the person to whom the order is directed may be sent to a prison or fine, or both, if the order is not obeyed.

(9) Where an order under this rule is made without reasonable notice of the application having been given to the person to whom the order is directed, that person may apply to the President for discharge or variation of the order within the period specified in the order; and that period must be no less than 14 days after the date of the order.

(10) A failure to comply without a reasonable excuse with an order under this rule is to be treated as a contempt to which rule 105 applies; and the President accordingly has the power to give a certificate under that rule for the purposes of this rule.”

(2) In rule 105 (contempt), in paragraph (1), for “section 81(3) of the Ecclesiastical Jurisdiction Measure 1963” substitute “section 25(3) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018”.

limit applies, the relevant officer is satisfied that there are exceptional circumstances which justify doing so.

(7) In paragraph (6), “relevant officer” means—

- (a) in the case of a form making or answering an allegation of misconduct or any attachments to it, the bishop, and
- (b) in any other case, the President.”

## **Powers of the President**

**11.** In Rule 102A(a), which is to be given the title “Powers of the President”, after paragraph (1) insert—

“(1A) The President may, on the President’s own initiative, give directions for the just disposal of an application, appeal or request in accordance with the overriding objective.”

## **Amendments to allegations of misconduct**

**12.** After Rule 103 insert—

### **“Amendments to allegations**

**103A.**—(1) At any time after the referral of an allegation of misconduct and before the commencement of the hearing of the allegation, the Registrar of Tribunals may, on an application in writing, direct that the allegation be amended.

(2) At any time after the commencement of the hearing of the allegation and before the pronouncement of the determination, the Chair may, on an application made orally, direct that the allegation be amended.

(3) A direction under paragraph (1) or (2) may be given only if the Registrar of Tribunals or (as the case may be) the Chair is satisfied that the amendment—

- (a) is necessary for the just disposal of the proceedings in accordance with the overriding objective,
- (b) meets the circumstances of the case, and
- (c) can be made without injustice to the complainant or the respondent.”

## **Use of statutory forms**

**13.**—(1) In each of Rules 4(1), 82(1), 92(a), 93(a), 94(a), 95(a) and 96(a), omit the words from “, or in a document” to the end.

(2) In Rule 6(2), omit “or in a document which is substantially to the same effect,”.

(3) In Rule 8(1), omit the words from “or in a document” to “of form 1c.”.

(4) In each of Rules 16(1)(a) and 17(4), omit “or in a document which is substantially to the like effect,”.

(5) In Rule 17(2), omit the words from “, or in a document” to “of form 2.”.

(6) In each of Rules 21(2)(a), 23(a) and 27(4) omit “or in a document which is substantially to the like effect”.

(7) In each of Rules 34(2), 34(5), 61(2), 61A(2), 61B(2), 61C(3) and 61D(3), omit “or in a form which is substantially to the like effect.”.

(8) In each of Rules 60(2) and 86(a), omit “or in a form which is substantially to the like effect”.

(9) In each of Rules 85(a), 86A(a), 86B(a), 86C(a) and 86D(a), omit “or in a form which is substantially to the same effect”.

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(a) Inserted by S.I. 2013/1917.

## **Minor corrections**

### **14. In the 2005 Rules—**

- (a) for “sub-rule”, in each place it appears, substitute “paragraph”, and
- (b) for “sub-rules”, in each place it appears, substitute “paragraphs”.

*M Ellis  
C J Angus  
R Arlow  
T J Briden  
S Butler  
L M Connacher  
A Dawtry  
J P Dziegief  
+ A Guildford  
V J H Rees  
+ A St Albans*

This Order was approved by the General Synod on 24th April 2021.

*J Philips  
Clerk to the General Synod*

## SCHEDULE 1

Rule 5(3)

### FORM OF APPLICATION FOR PRODUCTION OF DOCUMENTS BY NON-PARTY

#### FORM 10a (Rule 28A)

##### **Clergy Discipline Measure 2003**

##### **Application for the production of a document by a person not party to the proceedings**

**To the President of the Tribunals**

**In the matter of the complaint**

*Enter the complainant's name.* made by .....

*Enter the respondent's name.* against .....

*\*Delete if inapplicable.* **I wish to apply for an order against the following person or persons that they produce the documents specified or described in the Appendix**

*List the non-party or who has possession or control of the required documents. Include their name and address.*

- 1.
- 2.
- 3.
- 4.

**for the following reasons:**

*State your reasons for applying including why the documents are relevant and necessary for dealing fairly with the case.*

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*Specify or describe the relevant documents.*

**APPENDIX**

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules are made under sections 83 and 94 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 and make amendments to the Clergy Discipline Rules 2005 (S.I. 2005/2022).

Rule 2 requires an allegation of misconduct to include the complainant's email address if he or she has one and makes corresponding provision for the respondent's answer.

Rule 3 requires the allegation of misconduct to be accompanied by a timeline of relevant events.

Rule 4 adjusts the procedure in the case of an allegation of misconduct made out of time.

Rule 5 enables the designated officer or the respondent to apply for an order to require a person who is not a party to the allegation of misconduct to produce the documents specified in the order. The form for making the application is set out in Schedule 1.

Rule 6 prohibits a respondent from cross-examining a witness in person in a case of alleged sexual misconduct or where the witness was a child at the time of the alleged misconduct. It also imposes a prohibition for a case where the tribunal thinks that the quality of evidence would be adversely affected if the respondent undertook the cross-examination in person.

Rule 7 and Schedule 2 replace references in the Rules to "complaints" with references to "allegations of misconduct".

Rule 8 provides that, where there is an online facility for making or responding to allegations of misconduct, a document is to be regarded as delivered if the procedure provided for by the online facility has been followed.

Rule 9 specifies when a document is deemed to be sent or delivered, depending on the method of service used.

Rule 10 imposes word limits and page limits on the information which complainants, respondents and others provide for the purposes of the Rules.

Rule 11 enables the President to give directions in proceedings on his or her own initiative.

Rule 12 provides a procedure for amending allegations of misconduct.

Rule 13 removes various references to forms or documents which are substantially to the same effect as the prescribed forms in the Schedule to the Rules.

Rule 14 replaces references to "sub-rules" with references to the more usual terminology of "paragraphs".

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