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STATUTORY INSTRUMENTS

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**2020 No. 406**

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

**PART 2  
APPEALS**

**Enrolment appeals**

- 2.—(1) In Rule 57 (enrolment appeals), in paragraph (4)—
- (a) omit the “and” after sub-paragraph (a), and
  - (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) An appeal may be made against a determination that a nomination of a candidate for a relevant election is valid on the grounds that the nomination is not valid and that the person should, accordingly, not be included as a candidate for the election.

(3) An appeal under paragraph (1) or (2) may be brought only by an elector in the election.

(4) In this Rule, “relevant election”—

(a) means an election under these Rules or to a body constituted in accordance with these Rules, but

(b) does not include an election to the House of Laity of the General Synod.

(5) In a case where a choice of persons is, or is to be, made under these Rules (rather than an election being held), this Rule and the subsequent Rules in this Part apply to the choice as they apply to an election; and the references to elections are to be read accordingly.

#### **Election appeals**

**58A.**—(1) An appeal may be made against the result of a relevant election 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 end of the period for voting, misrepresented a material fact in connection with the election.

(2) An appeal may be made against the result of a relevant election 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 a relevant election on the grounds that—

(a) it has been determined on an enrolment appeal that an error was made in the roll of a parish or the register of clerical or lay electors or the question is awaiting determination on an enrolment appeal, 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 a relevant election 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 may not be brought under paragraph (1)(b) if—

- (a) the grounds of the appeal are to the effect that the nomination of the person whose election is the subject of the appeal was not valid, and
- (b) an appeal on grounds to that effect was brought under Rule 58(2) before the election.

(6) An appeal under this Rule may be brought by—

- (a) a candidate in the election,
- (b) a person entitled to vote in the election, or
- (c) the chair of the house of laity of the diocesan synod (where the appeal relates to laity) or the chair of the house of clergy (where the appeal relates to clergy).

(7) On an appeal under this Rule, 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.

(8) In this Rule, “relevant election”—

- (a) means an election held (or purporting to be held) under these Rules or an election to a body constituted in accordance with these Rules, but
- (b) does not include an election to the House of Laity of the General Synod.”

(2) In Rule 40 (diocesan synod: nomination for election)—

- (a) in paragraph (8)(b), after “the candidate” insert “and each of the persons who nominated the candidate”, and
- (b) in paragraph (9), for “must give reasons for that ruling” substitute “must give the candidate and each of the persons who nominated the candidate the reasons for the ruling when informing each of them of it under paragraph (8)(b)”.

### **Election appeals: power to make rules for House of Laity of General Synod**

4.—(1) In Rule 59 (election appeals: power to make rules for House of Laity of General Synod), for paragraph (1) substitute—

“(1) The General Synod must make rules providing for—

- (a) a right of appeal relating to a person’s eligibility to vote in an election to the House of Laity of the General Synod for the purposes of Rule 46(1)(c) or (f) (religious communities and Armed Forces Synod);
- (b) a right of appeal against a determination of whether a nomination of a candidate for election to that House is valid;
- (c) a right of appeal against the result of an election to that House.”

(2) After paragraph (2) of that Rule insert—

“(2A) The rules may include provision as to the payment of expenses incurred by the person who determines an appeal under the rules.”

### **Election appeals: appeal procedures**

5. After Rule 59 insert—

**“Election appeals: appeal procedures**

**59A.**—(1) Each of the following appeals (referred to in this Part as a “summary election appeal”) is to be dealt with in accordance with Rules 60 to 60C and 61I—

- (a) an appeal under Rule 58(1) or (2) (validity of nomination);
- (b) an appeal under Rule 58A(1)(a) or (b) (whether person duly elected or qualified to be candidate);
- (c) an appeal under Rule 58A(4) (allowance or disallowance of vote).

(2) Each of the following appeals (referred to in this Part as a “full election appeal”) is to be dealt with in accordance with Rules 61 to 61F, 61H and 61I—

- (a) an appeal under Rule 58A(1)(c) (misrepresentation of material fact);
- (b) an appeal under Rule 58A(2) (conduct of election);
- (c) an appeal under Rule 58A(3) (error in church electoral roll or register of clerical or lay electors).”

**Summary appeals**

6. For Rule 60 substitute—

**“Summary election appeal: notice**

**60.**—(1) Notice of a summary 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 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)—

- (a) the person to whom the notice of appeal is given;
- (b) any person to whom a notification is given under Rule 57A(1)(c);
- (c) on any appeal under Rule 57(3), the person to whose enrolment or removal from the roll or register the objection is made.

(2) On a full 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 61A(1)(b);

- (c) each relevant person.
- (3) Each of the following is a relevant person—
  - (a) on an appeal under Rule 58A(1)(c), the person whose election is the subject of the appeal;
  - (b) on an appeal under Rule 58A(2) or (3), any person to whom a notification is given under Rule 61A(1)(a).

**Enrolment appeal or full election appeal: appointment of panel**

**61C.**—(1) The bishop’s council and standing committee, on receiving a referral under Rule 57A(1) or 61A(1), must appoint a Chair and two other persons to serve as a panel to consider the appeal.

(2) The bishop’s council and standing committee, on receiving a referral under Rule 57A(2) or 61A(2), must appoint a Chair and two other persons to serve as a panel to decide whether, even though the purported notice of appeal was given out of time, the panel will nonetheless consider the appeal.

(3) In making the appointments under this Rule, the bishop’s council and standing committee must be satisfied that the persons appointed, taken together, have suitable legal or other experience or expertise.

(4) A person may not be appointed under this Rule if the person might have a benefit from the outcome of the election.

(5) Appointments under this Rule must be made before the end of 28 days beginning with the day on which the notice of appeal is given under Rule 57 or 61.

**Enrolment appeal or full election appeal: preliminary assessment**

**61D.**—(1) A panel appointed under Rule 61C(1) must conduct a preliminary assessment of the appeal.

(2) A preliminary assessment of an appeal is an assessment as to whether there are arguable grounds of appeal; and, in conducting a preliminary assessment, the panel may consider only—

- (a) the notice of appeal and any accompanying written submissions, and
- (b) any representations or explanation made in accordance with Rule 57A(6) or 61A(6).

(3) If the panel considers that there are arguable grounds of appeal, the appeal stands referred to the panel for—

- (a) in the case of an enrolment appeal, consideration and determination under Rules 61F and 61G;
- (b) in the case of a full election appeal, consideration and determination under Rules 61F and 61H.

(4) If the panel considers that there are no arguable grounds of appeal, the appeal is dismissed.

(5) The panel’s decision on the preliminary assessment is final.

(6) The panel must give a written notification to the parties to the appeal of the decision on the preliminary assessment of the appeal and the reasons for the decision.



### **Enrolment appeal or full election appeal: appeal out of time**

**61E.**—(1) A panel appointed under Rule 61C(2) may decide to consider the appeal only if, having regard to all the circumstances, it is satisfied that there is a good reason to allow the appeal to proceed.

- (2) The matters which the panel considers in making that decision must include—
  - (a) the purported notice of appeal and any accompanying written submissions (whether on the question of why notice of appeal was not given within the required period or on any other point), and
  - (b) any representations made in accordance with Rule 57A(8) or 61A(8).
- (3) Where the panel decides to consider the appeal—
  - (a) the period under Rule 57 or 61 for giving notice of appeal in that case is to be treated as having been extended so far as necessary,
  - (b) the appeal is to be treated as having been referred to the panel for decision, and
  - (c) the panel must ensure that each notification required under Rule 57A(1)(b) or (c) or 61A(a) or (b) is given to the person concerned (and, once that has been done, Rule 57A(4) to (6) and (9) or Rule 61A(3) to (6) and (9) applies in relation to the notification).

(4) Where the panel has decided to consider the appeal and the period for making representations in accordance with Rule 57A(6) or 61A(6) has expired, the panel may proceed to conduct a preliminary assessment of the appeal under Rule 61D.

(5) The panel must give a written notification to the parties to the appeal of the decision on whether the panel will consider the appeal and the reasons for the decision.

### **Enrolment appeal or full election appeal: consideration of matters at issue**

**61F.**—(1) The panel to which an enrolment appeal or a full election appeal is referred must, in deciding the matter at issue, consider all the circumstances; and for that purpose the panel—

- (a) may inspect documents or other papers relating to the subject-matter of the appeal, and
  - (b) is entitled to be provided with such information relating to the appeal as the panel may require.
- (2) The panel must give each party to the appeal an opportunity—
- (a) to appear before the panel in person or by a legal or other representative, or
  - (b) if that party does not wish to take that opportunity, to make written representations on the matter at issue.

(3) A hearing under paragraph (2) is to be held in public unless the panel, having regard to all the circumstances, is satisfied that it would be in the interests of justice for the hearing to be held in private.

### **Enrolment appeal: determination**

**61G.**—(1) On an enrolment appeal, the panel must decide whether the grounds of appeal are established to the panel's satisfaction.

- (2) Where the panel allows the appeal, it must—
  - (a) direct that the roll of the parish or the register of clerical or lay electors is to be revised as the panel specifies, and

- (b) give whatever further directions the panel thinks necessary.

**Full election appeal: determination**

**61H.**—(1) On a full election appeal, the panel must decide whether the grounds of appeal are established to the panel’s satisfaction.

- (2) Where the panel decides that the election as a whole is void, it must—
  - (a) direct that a fresh election is to be held, and
  - (b) give whatever further directions the panel thinks necessary.
- (3) Where the panel allows the appeal but does not decide that the election as a whole is void, it must give whatever directions it thinks necessary.
- (4) The panel on a full election 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.”

**General provisions**

- 8. After Rule 61H (inserted by paragraph 7 above), insert—

**“Appeals: general**

- 61I.**—(1) The decision on an appeal under this Part is final as to the matters at issue.
- (2) The relevant judge or the panel which made the decision on an appeal under this Part must give a written notification to the parties to the appeal of the decision and the reasons for the decision.
- (3) Where the direction that a fresh election is to be held is given under Rule 60C(5)(a) or 61H(2)(a), the date on which the direction is given is the date on which a casual vacancy occurs for the purposes of these Rules.
- (4) The relevant judge or the panel on an appeal under this Part may direct that a party to the appeal must pay the whole or part of the expenses of the relevant judge or the panel; and a direction under this paragraph must specify the amount which the party must pay.
- (5) The diocesan board of finance must pay the reasonable expenses of the relevant judge or the panel, in so far as they are not paid under paragraph (4).”

**Notification of right of appeal**

- 9.—(1) In Rule 40 (nomination), in paragraph (9), after “that ruling” insert “and give a written explanation of the right of appeal under Rule 58(1) against the ruling”.
- (2) In Rule 42 (conduct of election), in paragraph (1), after “each candidate” insert “; and the voting paper must be accompanied by a written explanation of the right of appeal under Rule 58(2) against the ruling that the nomination of a candidate is valid and of the right of appeal under Rule 58A against the result of the election.”

### Consequential amendments

10.—(1) In the Church Representation Rules, in the table at the beginning setting out the arrangement of the Rules, in the entry for Part 6 (appeals), for “61” substitute “61I”.

(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”.