

PART 9
APPEALS

Application of this Part and interpretation

47.—(1) This Part applies to any election to which any of the preceding Parts of these Rules applies.

(2) A reference in this Part to the Chair of the House of Clergy is a reference to the Prolocutor of the Convocation who is for the time being the Chairman of that House under its Standing Orders.

Appeals relating to eligibility to vote

48.—(1) A person whose name is not included on the register of Convocation electors in a diocese (as to which see Rule 5) may appeal against the failure to include the person's name on the register on the grounds that the person is a qualified elector in the diocese.

(2) A person whose name is included on the register of Convocation electors in a diocese but who objects to the inclusion of another person's name on the register may appeal against the inclusion of that other person's name on the register on the grounds that the other person is not a qualified elector in the diocese.

(3) Where it is decided that a person is not a qualified elector in the deans constituency, that person may appeal against that decision on the grounds that the person is a qualified elector in that constituency.

(4) A person who is a qualified elector in the deans constituency but who objects to the decision that another person is a qualified elector in the constituency may appeal against the decision on the grounds that the other person is not a qualified elector in the constituency.

(5) Where a person's application for inclusion in the register of electors maintained for the purposes of Rule 18 is refused, the person may appeal against the refusal on the grounds that the person is a qualified elector in the universities and TElS constituency.

(6) A person whose name is included on the register of electors maintained for the purposes of Rule 18 but who objects to the inclusion of another person's name on the register may appeal against the inclusion of that other person's name on the register on the grounds that the other person is not a qualified elector in the universities and TElS constituency.

(7) Where a person's name is not included on the list compiled under Rule 31(2) of persons entitled to vote in a religious communities election, that person may appeal against the failure to include the name on the grounds that the person is qualified to vote in the election.

(8) Where a person who is qualified to vote in a religious communities election objects to the inclusion of another person's name on the list compiled under Rule 31(2), the person may appeal against that inclusion of the name on the grounds that the other person is not qualified to vote in the election.

Appeals relating to nominations

49.—(1) An appeal may be made against a determination under Rule 25(5)(a) or 35(3)(a) that a nomination 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 in question.

(2) An appeal may be made against a determination under Rule 25(5)(a) or 35(3)(a) that a nomination 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 in question.

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

Appeals against election result

50.—(1) An appeal may be made against the result of an 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 against the result of an election may be made on the grounds that the conduct of the election was such as to affect the outcome of the election.

(3) An appeal against the result of an election in a diocese other than the diocese in Europe may be made on the grounds that—

- (a) it has been determined on an appeal under CRR Rule 57 (enrolment) that an error was made in the register of clerical electors in the diocese 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 against the result of an election in the diocese in Europe may be made on the grounds that—

- (a) it has been determined on an appeal under the provision applying in that diocese which corresponds to CRR Rule 57 that an error was made in the register of clerical electors in the diocese or the question is awaiting determination on an appeal under that provision, and
- (b) the error would or might be material to the result of the election.

(5) An appeal against the result of an election may be made 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 outcome of the election.

(6) 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 49(2) before the election.

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

- (a) a candidate in the election,
- (b) an elector in the election, or

- (c) in the case of an election in a diocese, the Prolocutor of the Lower House of the Convocation or, in the case of an election in any other constituency, the Chair of the House of Clergy.

(8) On an appeal under this Rule, a person who was declared elected as a member of the Lower House of Convocation but whose election is or may be affected by the appeal is to be regarded for all purposes as a member of the Lower House and of the General Synod pending the determination of the appeal.

(9) If the Chair of the House of Clergy is unable to bring an appeal under this Rule, the Prolocutor of the other Convocation may do so; and if the office of either Prolocutor is vacant, the person who last held the office is to be treated as holding the office for the purposes of this Rule.

Appeal procedures

51.—(1) Each of the following appeals (referred to in these Rules as a “summary election appeal”) is to be dealt with in accordance with Rules 52 to 55 and 64—

- (a) an appeal under Rule 49(1) or (2) (validity of nomination);
- (b) an appeal under Rule 50(1)(a) or (b) (whether person duly elected or qualified to be a candidate);
- (c) an appeal under Rule 50(5) (allowance or disallowance of vote).

(2) Each of the following appeals (referred to in these Rules as a “full election appeal”) is to be dealt with in accordance with Rules 56 to 64—

- (a) an appeal under Rule 48 (eligibility to vote);
- (b) an appeal under Rule 50(1)(c) (misrepresentation of material fact);
- (c) an appeal under Rule 50(2) (conduct of election);
- (d) an appeal under Rule 50(3) or (4) (error in register of clerical electors).

Summary election appeal: notice

52.—(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 49(1) (appeal against determination 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 determination.

(4) Notice of an appeal under Rule 49(2) (appeal against determination that nomination valid) brought by an elector (including one who is a candidate) must be given no later than two days after the day on which the elector receives an invitation to vote in the election.

(5) Notice of an appeal under Rule 50(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 50(5) (allowance or disallowance of vote) must be given no later than two days after—

(a) the day on which the vote in question was allowed or disallowed, or

(b) if the appeal is being brought on grounds that there is an error in the register of clergy electors but an appeal under CRR Rule 57 (enrolment) or, in the case of an election in the diocese in Europe, the equivalent provision to that Rule has yet to be determined, the day on which that appeal is determined.

Summary election appeal: referral to relevant judge, etc.

53.—(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 49(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

54.—(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 53(1)(c);
- (c) each relevant person.

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

- (a) on an appeal under Rule 49(1) or (2), the person whose nomination is the subject of the appeal;
- (b) on an appeal under Rule 50(1)(a) or (b), the person whose election is the subject of the appeal;
- (c) on an appeal under Rule 50(5), any person to whom a notification is given under Rule 53(1)(b).

Summary election appeal: determination

55.—(1) The relevant judge (referred to in this Rule as “the judge”), having had a notice of appeal referred under Rule 53, 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 53(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 49(1) that a nomination is valid, or decides on an appeal under Rule 49(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 50(1)(a) or (b) or (5), 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 50(1)(a) or (b) or (5), 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 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.

Full election appeal: notice of appeal

56.—(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 48(1) or (2) must be given no later than 14 days after the first day on which the register of Convocation electors is made available for inspection.
- (4) Notice of an appeal under Rule 48(3) or (4) must be given no later than 14 days after the day on which the decision is taken as to whether the person is a qualified elector.
- (5) Notice of an appeal under Rule 48(5) must be given no later than 14 days after the day on which the person in question is notified of the refusal of the application for inclusion on the register.
- (6) Notice of an appeal under Rule 48(6) must be given no later than 14 days after the first day on which the name in question is, or is not, included on the register published on the Church of England website.
- (7) Notice of an appeal under Rule 48(7) or (8) must be given no later than 14 days after the day on which the list compiled under Rule 31(2) is sent to members of the religious community in question.
- (8) Notice of an appeal under Rule 50(1)(c) or (2) must be given no later than 14 days after the declaration of the result of the election.
- (9) Notice of an appeal under Rule 50(3) or (4) 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 appeal under CRR Rule 57 (enrolment) or, in the case of an election in the diocese in Europe, the equivalent provision to that Rule has yet to be determined, the day on which that appeal is determined.

Full election appeal: referral of notice

57.—(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,
- (c) in the case of an appeal under Rule 48(2), (4), (6) or (8), give a written notification to the person in respect of whom the objection is made, and
- (d) refer the notice to the relevant office holders.

(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 written notification to each person referred to in paragraph (1)(a), (b) and (c), and
- (b) refer the notice to the relevant office holders.

(3) The relevant office holders are—

- (a) in the case of an election in a diocese, the bishop's council and standing committee of the diocese;
- (b) in the case of an election in any other constituency, the Prolocutors of the Convocations.

(4) A person to whom a notification is given under paragraph (1)(a) or (b) is entitled to make written representations to the panel appointed under Rule 59(1) on a decision to which the appeal relates.

(5) 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.

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

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

(8) 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 59(2) on the question of whether the panel should consider the appeal.

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

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

(11) Where either of the Prolocutors is directly concerned in an appeal, the Standing Committee of the House of Clergy must nominate a deputy to exercise the functions of the Prolocutor in question in relation to that appeal.

(12) Once a notice is referred under this Rule, the appellant may withdraw it only with the consent of the panel appointed under Rule 59 to decide the matter.

Full election appeal: parties

58.—(1) 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 57(1)(b);
- (c) each relevant person.

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

- (a) on an appeal under Rule 48(2), (4), (6) or (8), any person to whom a notification is given under Rule 57(1)(c);
- (b) on an appeal under Rule 50(1)(c), the person whose election is the subject of the appeal;
- (c) on an appeal under Rule 50(2), (3) or (4), any person to whom a notification is given under Rule 57(1)(a).

Full election appeal: appeal panel

59.—(1) The relevant office holders, on receiving a referral under Rule 57(1), must appoint a Chair and two other persons to serve as a panel to consider the appeal.

(2) The relevant office holders, on receiving a referral under Rule 57(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 relevant office holders must be satisfied that the persons appointed, taken together, have suitable legal or other expertise or experience.

(4) A person may not be appointed under this Rule if the person—

- (a) is entitled to vote in the diocese or other constituency to which the appeal relates, or
- (b) might otherwise have a benefit from the outcome of the election.

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

(6) “Relevant office holders” has the meaning given in Rule 57.

Full election appeal: preliminary assessment

60.—(1) A panel appointed under Rule 59(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 57(7).

(3) If the panel considers that there are arguable grounds of appeal, the appeal stands referred to the panel for consideration and determination under Rules 62 and 63.

(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.

(7) The panel’s decision and the reasons for the decision must be published on the Church of England website at the same time as the parties are notified of the decision.

Full election appeal: appeal out of time

61.—(1) A panel appointed under Rule 59(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 57(9).

(3) Where the panel decides to consider the appeal—

- (a) the period specified in this Part 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 57(1) is given to the person concerned (and, once that has been done, Rule 57(4) to (7) and (10) 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 57(7) has expired, the panel may proceed to conduct a preliminary assessment of the appeal under Rule 60.

(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.

(6) The panel's decision and the reasons for the decision must be published on the Church of England website at the same time as the parties are notified of the decision.

Full election appeal: consideration of matters at issue

62.—(1) The panel to which an appeal is referred under Rule 60 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 it 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)(a) 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.

Full election appeal: determination

63.—(1) On a full election appeal, the panel must decide whether the grounds of the appeal are established to the panel's satisfaction.

(2) On an appeal under Rule 48, the panel, having decided whether the person in question is qualified to vote in the constituency or election concerned, must give whatever directions it thinks necessary.

(3) 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 it thinks necessary.

(4) 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.

(5) 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.

Determination of appeal: general

64.—(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 55(5)(a) or 63(3)(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 panel's expenses, in so far as they are not paid under paragraph (4), are—

- (a) in the case of an election in a diocese, to be paid by the diocesan board of finance;
- (b) in the case of an election in any other constituency, to be paid by the Archbishops' Council.

PART 10

MISCELLANEOUS

Term of office

65. The term of office of a person elected as a member of the Lower House of Convocation of either province is (subject to resignation) for the lifetime of the Convocation; but that does not prevent the person from doing either of the following during a dissolution—

- (a) acting under Article 3(4) of the Constitution of the General Synod (under which a person may continue to act as a member of a body of the Synod);