
STATUTORY INSTRUMENTS

1994 No. 703

ECCLESIASTICAL LAW, ENGLAND

Incumbents (Vacation of Benefices) Rules 1994

Approved by the General Synod 22nd February 1994

Made - - - - 24th January 1994

Laid before Parliament 11th March 1994

Coming into force in accordance with Rule 1

In exercise of the powers conferred on it by section 18 of the Incumbents (Vacation of Benefices) Measure 1977(1) as amended by the Incumbents (Vacation of Benefices) (Amendment) Measure 1993(2) the Vacation of Benefices Rule Committee constituted in accordance with subsection (1) of that section hereby makes the following Rules:—

PART I

FORMAL PROVISIONS

Citation and commencement

1. These Rules may be cited as the Incumbents (Vacation of Benefices) Rules 1994 and shall come into force on the date on which section 7(2) of the Measure as originally enacted ceases to have effect.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires,—

“bishop” means the bishop of the diocese in which the parish in question is;

“designated representative” has the same meaning as in section 1A(3)(b) of the Measure;

“the Measure” means the Incumbents (Vacation of Benefices) Measure 1977;

“parties” has the same meaning as in section 7(6) of the Measure;

“secretary” means the secretary of the tribunal;

“tribunal” means the provincial tribunal concerned.

(2) In these Rules a rule referred to by number means the rule so numbered in these Rules.

(1) 1977 No. 1.
(2) 1993 No. 3.

(3) The Interpretation Measure 1925⁽³⁾ and the Interpretation Act 1978⁽⁴⁾ shall apply for the interpretation of these Rules as they apply for the interpretation of Measures passed by the General Synod.

PART II

ENQUIRIES UNDER PART I OF THE MEASURE

Application

3. This Part applies to enquiries under Part I of the Measure and references to an enquiry shall be construed accordingly.

Supply of material to parties and tribunal

4.—(1) As soon as possible after the constitution of the tribunal for an enquiry, the secretary shall send to all parties and to the bishop concerned a notice setting out the composition of the tribunal and specifying the date on which it was constituted and its address for the purpose of serving documents.

(2) The secretary shall ensure that the tribunal is supplied with the following documents —

- (a) a copy of the request for the enquiry;
- (b) a copy of the report made by the archdeacon to the bishop in accordance with section 2(5) of the Measure, except where no such report was required by virtue of section 2(1);
- (c) a copy of the bishop's direction to the diocesan secretary under section 3(1) relating to the institution of the enquiry, except where no such direction was given by virtue of section 3(1A).

Directions as to conduct of enquiry

5.—(1) As soon as possible after the constitution of the tribunal the chairman shall consider whether directions for the purpose of securing the just and convenient conduct of the enquiry should be given and, in particular, whether directions should be given as to —

- (a) the submission of statements by the parties for the purpose of defining issues or setting out the allegations made and the replies thereto;
- (b) any specific questions to be put by any party to any other party;
- (c) the production of documents and their presentation in a form convenient for use at the hearing;
- (d) the ascertainment and interviewing of parishioners of any parish in the benefice to which the parish in question belongs and other persons who, in the opinion of the chairman, may be able to assist the parties or the tribunal and the submission of statements by them to the tribunal;
- (e) the giving of notices to witnesses to attend the hearing and the submission of witness statements;
- (f) the procedure to be followed at the hearing, including which party is to call evidence first and the order of making submissions;
- (g) the holding of a preliminary hearing in order to consider and determine points of law or jurisdiction or to receive evidence on affidavit or to consider whether a direction

(3) 1925 No. 1.
(4) 1978 c. 30.

under section 7A of the Measure that the incumbent concerned should undergo a medical examination is to be given;

- (h) the arrangements for the hearing, including location, date, estimate of time required and whether (and if so how) the proceedings are to be recorded;
- (i) the giving of advice to the parochial church council concerning its power under rule 25 to designate representatives.

(2) The chairman of the tribunal shall then give such directions as appear to him to be appropriate for the purpose, subject to the provisions of the Measure and of these Rules.

(3) Where directions have been given under paragraph (2) above, the chairman may at any time give such further directions under that paragraph as he considers appropriate.

(4) The chairman may hold a hearing for the purposes of this rule.

Further directions as to hearing, etc

6. When it appears to the secretary that any directions given under rule 5 have been complied with or that the time allowed for compliance therewith has expired the secretary shall refer the matter to the chairman of the tribunal for the giving of further directions under that rule in connection with arrangements for the hearing or otherwise as to the conduct of the enquiry.

Notice of hearing.

7.—(1) Not less than fourteen days' notice of the date, time and place at which any hearing of the tribunal is to be held shall be given to the bishop, the incumbent concerned, the secretary of the parochial church council of any parish belonging to the benefice of which the incumbent concerned is the incumbent, the archdeacon in whose archdeaconry any such parish is and the designated representative, if any.

(2) A notice under this rule shall identify the parties to the proceedings and state who may attend the hearing to which the notice relates.

Appearance at hearing.

8.—(1) The parties to the proceedings on the enquiry shall be entitled to appear before, and to be heard by, the tribunal and to give oral evidence in those proceedings.

(2) The tribunal may invite any person who may in its opinion be able to assist the parties or the tribunal to address it or give oral evidence or both.

(3) The tribunal may require oral evidence by any person in such proceedings to be given on oath and for that purpose the chairman of the tribunal may administer oaths.

(4) Where the request for an enquiry was made by the persons mentioned in section 1A(1)(c) or (d) of the Measure, none of those persons (other than the persons mentioned in section 7(6) of the Measure as being willing to act as representatives) shall be entitled to attend any hearing of the tribunal without the consent of the chairman of the tribunal unless the hearing is one which is held in public.

Evidence

9. The tribunal may receive oral, documentary or other evidence of any fact or matter which appears to it to be relevant to the enquiry (including evidence which would not be admissible in civil or criminal proceedings), whether or not the parties consent.

Hearing normally to be private.

10.—(1) Subject to paragraph (2) below, the proceedings at any hearing of the tribunal shall be held in private.

(2) If the incumbent concerned so requests or the tribunal so directs in the interests of justice or for any other good reason, the proceedings at any hearing of the tribunal shall be held in public.

Directions for medical examination

11. Any of the parties may —

- (a) before the hearing request the tribunal in writing to give a direction under section 7A of the Measure that the incumbent concerned should undergo a medical examination; or
- (b) during the hearing request the tribunal orally or in writing to give such a direction,

and the tribunal may at any time give such a direction, whether or not such a request has been made.

Designation of medical examiners

12. Directions given under rule 11 for a medical examination shall —

- (a) designate the person or persons by whom the examination is to be carried out;
- (b) if the incumbent concerned has not agreed to the designation made under paragraph (a) above, include a further designation of a person chosen by him to carry out a second examination; and
- (c) specify the manner in which and the time within which the person or persons designated under paragraph (a) or (b) above should report to the tribunal on the incumbent's mental or physical condition.

Report

13. In addition to the matters mentioned in section 9(1), (2) and (4) of the Measure, the tribunal shall include in its report to the bishop a statement —

- (a) setting out its decisions as to the facts and other issues involved and explaining its reasons for reaching those decisions; and
- (b) indicating the number of votes cast for and against each decision.

PART III

ENQUIRIES UNDER PART II OF THE MEASURE

Application

14. This Part applies to enquiries under Part II of the Measure and references to an enquiry shall be construed accordingly.

Presentation of case.

15.—(1) Subject to paragraph (2) below, the archdeacon in whose archdeaconry the benefice of the incumbent concerned is shall be responsible for presenting the case at the enquiry.

(2) Where—

- (a) the archdeaconry mentioned in paragraph (1) above is vacant; or
- (b) the incumbent concerned is the archdeacon mentioned in paragraph (1) above; or
- (c) the archdeacon informs the bishop concerned that he is of opinion that it would not be right or expedient for him to act in the case,

the bishop shall appoint some other clerk in Holy Orders holding office in the diocese to present the case at the enquiry and references in this Part to the archdeacon responsible for presenting the case shall be construed accordingly.

(3) A clerk in Holy Orders appointed under paragraph (2) above to present the case at an enquiry shall be deemed to be a party to the proceedings for the purposes of these Rules.

Supply of material to parties and tribunal.

16.—(1) As soon as possible after the constitution of the tribunal for an enquiry, the secretary shall send to all parties and to the bishop concerned a notice setting out the composition of the tribunal and specifying the date on which it was constituted and its address for the purpose of serving documents.

(2) The secretary shall ensure that the tribunal is supplied with a copy of the bishop's instructions to the diocesan secretary under section 6(1) of the Measure relating to the institution of the enquiry.

Statement by bishop

17.—(1) The bishop concerned shall—

- (a) within twenty-eight days after the constitution of the tribunal, send to the tribunal a written statement explaining the circumstances which led him to give instructions for the institution of the enquiry; and
- (b) send a copy of it to the incumbent concerned and to the archdeacon responsible for presenting the case.

(2) The incumbent concerned may within twenty-eight days after such copy is supplied to him, send comments thereon in writing to the tribunal and, if he does so, shall send a copy of his comments to the archdeacon responsible for presenting the case.

Directions

18.—(1) Rules 5 and 6 shall apply in relation to an enquiry as they apply in relation to an enquiry under Part I of the Measure.

(2) Where paragraph (2) of rule 15 applies, the chairman of the tribunal shall give directions under rule 5 as applied by this rule as to the time within which the steps mentioned in that paragraph are to be taken.

Notice of hearing

19.—(1) Not less than fourteen days' notice of the date, time and place at which any hearing of the tribunal is to be held shall be given to the bishop, the incumbent concerned, the secretary of the parochial church council of any parish belonging to the benefice of which the incumbent concerned is the incumbent and the archdeacon responsible for presenting the case.

(2) A notice under this rule shall identify the parties to the proceedings and state who may attend the hearing to which the notice relates.

Appearance at hearing

20.—(1) The parties to the proceedings on the enquiry shall be entitled to appear before, and to be heard by, the tribunal and to give oral evidence in those proceedings.

(2) The tribunal may invite any person who may in its opinion be able to assist the parties or the tribunal to address it or give oral evidence or both.

(3) The tribunal may require oral evidence by any person in such proceedings to be given on oath and for that purpose the chairman of the tribunal may administer oaths.

Evidence and medical examinations

21. Rules 9, 11 and 12 shall apply in relation to an enquiry as they apply in relation to an enquiry under Part I of the Measure.

Hearing normally to be private.

22.—(1) Subject to paragraph (2) below, the proceedings at any hearing of the tribunal shall be held in private.

(2) If the tribunal so directs in the interests of justice or for any other good reason the proceedings at any hearing of the tribunal shall be held in public.

Report

23. In addition to the matters mentioned in section 9(3) and (4) of the Measure, the tribunal shall include in its report to the bishop a statement —

- (a) setting out its decisions as to the facts and other issues involved and explaining its reasons for reaching those decisions; and
- (b) indicating the number of votes cast for and against each decision.

PART IV GENERAL

Application

24. This Part applies to enquiries under Part I or Part II of the Measure and references to an enquiry shall be construed accordingly.

Representation of parochial church council

25.—(1) The parochial church council of the parish concerned may designate one or more members of the council to represent it in connection with the enquiry.

(2) If the tribunal so directs —

- (a) rules 4(1), 8(1), 16(1) and 20(1) shall apply in relation to a member of the council designated as aforesaid as they apply in relation to the parties; and
- (b) rules 7(1) and 19(1) shall apply in relation to him as they apply in relation to the other persons mentioned in those rules.

(3) This rule shall not apply in the case of an enquiry under Part I of the Measure undertaken at the request of the person mentioned in section 1A(1)(c).

Procedure generally

26. Subject to the provisions of the Measure and of these Rules the procedure of the tribunal shall be such as the tribunal may determine.

Functions of chairman

27. In carrying out his functions under these Rules the chairman of the tribunal may act alone or in consultation with one or more other members of the tribunal and rules 10, 22, 26 and 29 shall apply in relation to the chairman as they apply in relation to the tribunal.

Service of documents.

28.—(1) Any notice or other document required to be given or sent to any person may be served on that person or his solicitor (if any) —

- (a) by delivering it to him or by leaving it at his proper address; or
- (b) by post; or
- (c) where the proper address for service includes a numbered box at a document exchange, by leaving the document at the document exchange or at a document exchange which transmits documents every business day to that document exchange; or
- (d) in such other manner as the chairman of the tribunal may direct.

(2) For the purpose of this rule and of section 7 of the Interpretation Act 1978⁽⁵⁾ (as applied by sections 21 and 22 of that Act) in its application to this rule the proper address of any person on whom a notice or other document is to be served under this rule shall be —

- (a) his usual or last known address; or
- (b) the business address of the solicitor (if any) who is acting for him in the proceedings.

(3) Any document required by these rules to be sent to the tribunal shall be sent by delivering the document to the secretary at the address specified in the notice referred to in rules 4(1) and 16(1) or by sending it by post properly addressed as aforesaid to the secretary.

Extension of time limits

29. The tribunal either of its own motion or on the application of any person may by order extend any time limit for the doing of anything required or authorised by or under these Rules (either before or after the expiry of such time limit) and may adjourn any hearing from time to time.

Non-compliance with Rules

30. Non-compliance with any of these Rules shall not affect the validity of the proceedings except insofar as the tribunal so directs.

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Brian Harris
Michael Hodge
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Dated this 24th day of January 1994.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Approved by the General Synod the

22nd day of February 1994.

Philip Mawer
Secretary-General

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules regulate the procedure and practice of provincial tribunals in connection with enquiries under the Incumbents (Vacation of Benefices) Measure 1977 (as amended by the Incumbents (Vacation of Benefices) (Amendment) Measure 1993(6)) and deal with the obtaining of medical evidence in connection with such enquiries.