

STATUTORY INSTRUMENTS

2013 No.

ECCLESIASTICAL LAW, ENGLAND

Clergy Discipline Appeal (Amendment) Rules 2013

Made - - - - *July 2013*

Laid before Parliament *July 2013*

Coming into force in accordance with rule 20

In pursuance of sections 26(1) and (2) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991(a) as amended by sections 45(1) and (2) of the Clergy Discipline Measure 2003(b), the Rule Committee constituted in accordance with section 25 of the said 1991 Measure as amended by section 45(3) of the said 2003 Measure makes the following rules to amend the Clergy Discipline Appeal Rules S.I. 2005 No. 3201—

Amendments to the Clergy Discipline Appeal Rules

1. The Clergy Discipline Appeal Rules 2005 are amended as follows.

Right of appeal under section 20 of the Measure

- 2.—(1) Rule 3 is amended as follows.

(2) In paragraph (a) after the word “appeal” insert the words “with leave of the tribunal or appellate court”.

(3) In paragraph (b) after the word “appeal” insert the words “with the leave of the tribunal or appellate court”.

Application for leave to appeal

3. After rule 4 there are inserted the following rules—

“Application for leave to appeal

- 4A.—(1) An application for leave to appeal may be made—

- (a) orally to the tribunal upon the pronouncement in public of the tribunal’s decision or imposition of a penalty, or
- (b) in writing to the appellate court within 28 days of the pronouncement in public of the tribunal’s decision or, if later, imposition of a penalty.

(2) An application by a respondent under sub-rule (1)(b) above shall be in form A1A in the Schedule or a document which is substantially to the like effect containing the information required by sub-rule (3).

- (3) An application by a respondent under sub-rule (1)(b) above shall—
- (a) state the full name, contact address including postcode, and telephone number of the respondent,
 - (b) where the respondent is legally represented, state the name, contact address and telephone number of the solicitor acting for the respondent,
 - (c) identify the tribunal which heard the complaint, and state the complaint reference number and the date or dates of the pronouncement in public of the tribunal's decision and imposition of any penalty,
 - (d) state whether the application for leave to appeal is in respect of—
 - (i) findings of law or fact or both, or
 - (ii) findings of law or fact or both, and also the penalty, or
 - (iii) the penalty only,
 - (e) be signed and dated by the respondent or the representative of the respondent.
- (4) An application by the Designated Officer under sub-rule (1)(b) shall be in form A2A in the Schedule or a document which is substantially to the like effect containing the information required by sub-rule (5).
- (5) An application by the Designated Officer under sub-rule (1)(b) above shall—
- (a) state the full name and contact details of the Designated Officer,
 - (b) identify the tribunal which heard the complaint, and state the complaint reference number and the date or dates of the pronouncement in public of the tribunal's decision and imposition of any penalty,
 - (c) be signed and dated by the Designated Officer or a person duly authorised by the Designated Officer.

Documents to be attached to a written application for leave to appeal

4B. The following documents shall be attached to an application under rule 4A(1)(b) by the party making the application—

- (a) a completed draft notice of appeal in form A1 or A2, as the case may be, setting out the reasons for appealing,
- (b) a copy of the tribunal's decision,
- (c) if a penalty was imposed by the tribunal, a copy of the written decision imposing the penalty.

Sending or delivering a written application for leave to appeal

4C. An application under rule 4A(1)(b) above with the attached documents shall be sent or delivered to the Provincial Registrar together with two additional copies, and at the same time a copy of the application with attached documents shall be sent or delivered by the party making the application to the Designated Officer or the respondent as the case may be.

Determination of an application for leave to appeal

4D.—(1) An application under rule 4A(1)(b) shall be determined jointly by the Dean and one judge appointed in accordance with section 20(1B) of the Measure, and may, if the Dean so directs, be determined without a hearing.

(2) Before determining an application without a hearing the appellate court shall give the other party 14 days within which to make written representations in response to the application, and the other party shall send or deliver to the party making the application a copy of any such representations.

(3) The appellate court shall give leave to appeal if at least one of the judges is satisfied that there would be a real prospect of success on appeal or that there is some other compelling reason why the appeal should be heard.

(4) The determination of an application for leave to appeal shall be put into writing by the tribunal or appellate court, as the case may be, and the determination may direct that the issues to be heard on appeal be limited in such way as the tribunal or appellate court may specify.”.

Notice of appeal from respondent

4.—(1) Rule 5 is amended as follows.

(2) In sub-rule (2) after sub-paragraph (d) there is inserted a new sub-paragraph—

“(dd) if applicable, state the date when the tribunal granted leave to appeal, and shall have attached a copy of the tribunal’s order granting such leave,”.

(3) After sub-rule (2) there is inserted a new sub-rule—

“(3) Without prejudice to rule 19 below, where a direction has been given in accordance with section 20(1C) of the Measure the issues raised in the notice of appeal shall be limited to the issues specified in the direction.”.

Notice of appeal from the Designated Officer

5.—(1) Rule 6 is amended as follows.

(2) In sub-rule (2) after sub-paragraph (d) there is inserted a new sub-paragraph—

“(dd) if applicable, state the date when the tribunal granted leave to appeal, and shall have attached a copy of the tribunal’s order granting such leave,”.

(3) After sub-rule (2) there is inserted a new sub-rule—

“(3) Without prejudice to rule 19 below, where a direction has been given in accordance with section 20(1C) of the Measure the issues raised in the notice of appeal shall be limited to the issues specified in the direction.”.

Time for appealing and for sending or delivering the notice of appeal

6. In rule 8(1) for all the words after “of the date” there are substituted the words “when the tribunal granted leave to appeal or within 21 days of the date when the appellate court granted leave to appeal, as the case may be”.

Application for permission to appeal out of time

7.—(1) Rule 9 is amended as follows.

(2) In the heading to rule 9 the words “to the Dean” are omitted.

(3) For sub-rule (5) there is substituted the following sub-rule—

“(5) The application shall be determined jointly by the Dean and one judge appointed in accordance with section 20(1B) of the Measure, and may, if the Dean so directs, be determined without a hearing.”.

(4) In sub-rule (6) for the word “Dean” there are substituted the words “appellate court”.

(5) For sub-rule (7) there is substituted the following sub-rule—

“(7) The appellate court may give permission to appeal out of time if at least one of the judges is satisfied that—

(a) there was good reason why the party making the application did not appeal within the time allowed,

(b) there would be a real prospect of success on appeal or that there is some other compelling reason why the appeal should be heard, and

- (c) the other party would not suffer significant prejudice as a result of the delay.”.
- (6) For sub-rule (8) there is substituted the following sub-rule—
- “(8) The appellate court’s determination of the application shall be put into writing.”.
- (7) For sub-rule (9) there is substituted the following sub-rule—
- “(9) If permission to appeal out of time is granted a direction may be given under section 20(1C) limiting the issues to be heard on appeal.”.

Postponement of penalty

8. In rule 10(1) after the words “pending the disposal of an” there are inserted the words “application under rule 4A above and, if applicable, an”.

Interim directions

- 9.** Rule 11 is amended by inserting after sub-rule (1) the following sub-rule—
- “(1A) Upon receipt of an application for leave to appeal, or permission to appeal out of time, the Provincial Registrar may give directions for the just disposal of the application in accordance with the overriding objective in rule 1.”.

Appointment of members of the appellate court

10. After rule 12 there is inserted the following rule—

“Appointment of members of the appellate court

12A.—(1) Within 14 days of being notified under section 20(4) of the Measure of their identity, or within such shorter time as the President may allow, the respondent may make written representations to the President about the suitability of any proposed member of the appellate court which will hear the complaint or application, and the President shall not appoint any of the members until such representations, if any, have been received and considered.

(2) If the President is not satisfied that a proposed appointee is impartial, the President shall propose an alternative person, and shall afford an opportunity to the respondent to make representations about that person within 14 days of being notified of that person’s identity, or within such shorter time as the President may allow.”.

Fixing the date and place of a hearing

- 11.**—(1) Rule 15 is amended as follows.
- (2) In the heading to rule 15 for the words “the appeal” there is substituted the word “a”.
- (3) In sub-rule (1) after the word “appeal” there are inserted the words “or of an application”.
- (4) In sub-rule (2) after the word “appeal” there are inserted the words “or of an application”.
- (5) In sub-rule (3) the word “appeal” is omitted.

Power to adjourn

12. In rule 21 for the word “The” there is substituted the word “A”.

Appellate court may require personal attendance of a witness

13. In rule 23 for the words “the hearing” there are substituted the words “a hearing”.

Power to exclude from hearing

14. In rule 24 for the words “the hearing” in the first place where they occur there are substituted the words “a hearing”.

Hearing normally to be heard in public

15.—(1) Rule 25 is amended as follows.

(2) In the heading to rule 25 for the word “Appeal” there is substituted the word “Hearing”.

(3) At the beginning of rule 25 for the word “The” there is substituted the word “A”.

Interpretation

16. In rule 43 the definition of “appellate court” is amended by adding at the end the words “, as constituted in accordance with section 20(1B), (2) or (3) of the Measure, as the case may be”.

Amendments to forms A1 and A2

17.—(1) Form A1 in the Schedule to the Clergy Discipline Appeal Rules 2005 is amended as follows—

(a) immediately below the words “**I wish to appeal only against the penalty**” and the adjacent tick box there are inserted the following words—

“*Leave to appeal was *granted to me/*refused by the *tribunal/*Vicar-General’s court on *and I attach a copy of the order of the *tribunal/*Vicar-General’s court.”, and

(b) in the left hand margin next to the words inserted by sub-rule (1)(a) above there is inserted the following note—

*“*Delete as appropriate. If applicable put the date when leave to appeal was granted or refused.”*

(2) Form A2 in the Schedule to the Clergy Discipline Appeal Rules 2005 is amended as follows—

(a) immediately below the words “**pronounced in public on**” there are inserted the following words—

“*Leave to appeal was *granted to me/*refused by the *tribunal/*Vicar-General’s court on *and I attach a copy of the order of the *tribunal/*Vicar-General’s court.”, and

(b) in the left hand margin next to the words inserted by sub-rule (2)(a) above there is inserted the following note—

*“*Delete as appropriate. If applicable put the date when leave to appeal was granted or refused.”*

Amendment to form A3

18. In form A3 in the Schedule to the Clergy Discipline Appeal Rules 2005 for the words “appeal within 28 days of the pronouncement in public of the decision or the imposition of the penalty” there are substituted the words “apply in time for leave to appeal”.

Forms A1A and A2A

19. After form A2 in the Schedule to the Clergy Discipline Appeal Rules 2005 there are inserted forms A1A and A2A set out in the Schedule to these rules.

Citation and commencement

20.—(1) These rules shall be known as the Clergy Discipline Appeal (Amendment) Rules 2013.

(2) These rules shall come into force on such date as the Archbishops of Canterbury and York may jointly appoint, and different dates may be appointed for different rules.

C R George
C J Angus
T J Briden
R D H Bursell
J P Dziegiel
+C Guildford
C E Hardman
T P Jones
L P M Lennox
V J H Rees
+A St. Albans
A Sloman
C E Vann

Church House, London
Approved by the General Synod on
Date

J Philips
Clerk to the Synod

SCHEDULE
FORMS

FORM A1A (Rule 4A)

Clergy Discipline Measure 2003
Application by a respondent to a complaint for leave to appeal

Delete as appropriate.* **In the *Arches Court of Canterbury /*Chancery Court of York

NOTE: in the case of an appeal from the Vicar-General's court for a province, it is the provincial registrar of the OTHER PROVINCE to whom the notice of application must be sent. **To the Provincial Registrar for the province of *Canterbury /*York**

My details

My full name is:.....

My contact address, including postal code, is:.....
.....
.....

My contact telephone number is:.....

***Email details are optional, but it could be helpful to the Provincial Registrar to have them*

****My e-mail address is:.....**

Complete if you have instructed a solicitor to represent you.

My solicitor's details

My solicitor's name is:.....

and the contact address is:.....
.....
.....

DX number:.....

Telephone number:.....

Details of the decision against which I wish to appeal

I wish to apply for leave to appeal in respect of the decision of:

Delete as appropriate.* *the bishop’s disciplinary tribunal for the diocese of**
.....
or
***the court of the Vicar-General for the province of**
***Canterbury / *York**

Insert the reference number given to the complaint. **complaint reference number**
Put the date(s) when the tribunal’s decision was pronounced and any penalty imposed. **pronounced in public on**

*Tick **one** box **only**.* **I wish to apply for leave to appeal in respect of findings of law or fact, or both**
 I wish to apply for leave to appeal in respect of findings of law or fact, or both, and the penalty
 I wish to apply for leave to appeal only in respect of the penalty

*You **must** send a completed draft notice of appeal.* **I attach a completed draft notice of appeal in form A1 setting out my reasons for appealing, and the documents required by that form.**

I am sending a copy of this application and attached documents to the Designated Officer.

I believe that the facts of this application are true.

The application must be signed by the respondent or the representative of the respondent.

Signed:

Dated:

State whether you are the respondent, or the representative of the respondent.

Capacity

FORM A2A (Rule 4A)

**Clergy Discipline Measure 2003
Application by the Designated Officer for leave to appeal**

Delete as appropriate.* **In the *Arches Court of Canterbury /*Chancery Court of York

NOTE: in the case of an appeal from the Vicar-General's court for a province, it is the provincial registrar of the OTHER PROVINCE to whom the notice of application must be sent. **To the Provincial Registrar for the province of *Canterbury /*York**

My details

My full name is:.....

My contact address, including postal code, is:.....
.....
.....

DX number:.....

Telephone number:.....

My e-mail address is:.....

I believe the respondent is represented by:

Name of solicitor:.....

and the contact address is:.....
.....
.....

DX number:.....

Telephone number:.....

Details of the decision against which I wish to appeal

I wish to apply for leave to appeal in respect of the decision of:

Delete as appropriate.* *the bishop's disciplinary tribunal for the diocese of**
.....

or

***the court of the Vicar-General for the province of
*Canterbury / *York**

*Insert the reference
number given to the
complaint.*

*Put the date(s) when the
tribunal's decision was
pronounced and any
penalty imposed.*

complaint reference number

pronounced in public on

*You **must** send a
completed draft notice
of appeal.*

**I attach a completed draft notice of appeal in form A2 setting out
my reasons for appealing, and the documents required by that
form.**

**I am sending a copy of this application and attached documents to
the respondent.**

I believe that the facts of this application are true.

*A person duly
authorised by the
Designated Officer may
sign.*

Signed:

Dated:

Capacity

EXPLANATORY NOTE

(This note is not part of the Order)

These rules are made pursuant to section 26 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 as amended by section 45 of the Clergy Discipline Measure 2003. The rules amend the Clergy Discipline Appeal Rules S.I. 2005 No. 3201.